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Contents

Federal Register

Vol. 66, No. 162

Tuesday, August 21, 2001

Agricultural Marketing Service
NOTICES
Committees; establishment, renewal, termination, etc.:
Fruit and Vegetable Industry Advisory Committee, 43833

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Food Safety and Inspection Service
See Forest Service
See Grain Inspection, Packers and Stockyards Administration
See Natural Resources Conservation Service
See Rural Utilities Service

Air Force Department
PROPOSED RULES
Privacy Act; implementation, 43820–43822
NOTICES
Privacy Act:
Systems of records, 43843–43847

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Scrapie in sheep and goats—
Movement restrictions and indemnity program, 43963–44003
NOTICES
Meetings:
Animal Disease Risk Assessment, Prevention, and Control Act; economic impacts due to introduction of diseases into U.S.; report development; comment request, 43833–43834

Army Department
See Engineers Corps
PROPOSED RULES
Privacy Act; implementation, 43818–43820
NOTICES
Privacy Act:
Systems of records, 43847–43850

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Human immunodeficiency virus (HIV)—
Kenya; HIV/AIDS prevention activities expansion, 43872–43873
Kenya; mother to child transmission prevention program, 43872
South African trade unions; capacity-building assistance to develop and implement effective HIV/AIDS prevention education programs, 43872

Children and Families Administration
NOTICES
Grant and cooperative agreement awards:
Research Foundation of State University of New York, 43873

Coast Guard
RULES
Ports and waterways safety:
Gulf of Alaska, Narrow Cape, Kodiak Island, AK; safety zone, 43774–43776
Sister Bay, WI; safety zone, 43776–43778

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration

Committee for the Implementation of Textile Agreements
NOTICES
Special access and special regime programs:
Participation denial—
Oxford Industries, Inc., 43841

Defense Department
See Air Force Department
See Army Department
See Engineers Corps
NOTICES
Contract payment claims; electronic submission and processing; 10 U.S.C. 2227 implementation delay, 43841
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 43841–43842 43842–43843

Education Department
RULES
Postsecondary education:
Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program, 44005–44007

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Radioactive waste:
Yucca Mountain, NV; site recommendation consideration hearings, etc., 43850–43851

Engineers Corps
NOTICES
Nationwide permits (NWPs); issuance, reissuance, and modifications; comment request; correction, 43961

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 43779–43796
Pennsylvania; correction, 43796–43798
Hazardous waste program authorizations:
South Carolina, 43798–43806
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 43806–43808

PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 43822–43823
Hazardous waste:
Identification and listing—
Exclusions, 43823–43831
Hazardous waste program authorizations:
South Carolina, 43831
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 43831–43832
NOTICES
Meetings:
Science Advisory Board, 43864–43865
Superfund; response and remedial actions, proposed settlements, etc.:
PCB Treatment, Inc. Site, KS and MO, 43867
Superfund program:
Community right-to-know toxic chemical release reporting—
Lead and lead compounds, 43865–43867

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 43763–43766
Empresa Brasileira de Aeronautica S.A. (EMBRAER), 43766–43770
McDonnell Douglas, 43770–43773
PROPOSED RULES
Airworthiness directives:
Dornier, 43815–43818
Fairchild, 43814–43815
Reims Aviation S.A., 43811–43813
NOTICES
Agency information collection activities:
Proposed collection; comment request, 43950–43951
Airports:
Airport congestion and airline flight delay relief; market-based approaches; comment request, 43947–43950
Meetings:
RTCA, Inc., 43951–43952

Federal Communications Commission
NOTICES
Meetings:
Public Safety National Coordination Committee, 43868

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 43868

Federal Election Commission
NOTICES
Special elections; filing dates:
Arkansas, 43868–43870

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Puget Sound Energy, Inc., et al., 43858–43859
Environmental statements; availability, etc.:
Alcoa Power Generating, Inc., 43859–43860
Hydroelectric applications, 43860–43864
Applications, hearings, determinations, etc.:
Capital Energy, Inc., 43851–43852
Cold Springs Creek, LLC, 43852
Crossroads Pipeline Co., 43852–43853
Desert Power, L.P., 43853
Entrust Energy, L.L.C., 43853–43854
Gray County Wind Energy, LLC, 43854
Kern River Gas Transmission Co., 43854–43855
MIGC, Inc., 43855
Millennium Pipeline Co., L.P., 43855
Natural Gas Pipeline Co. of America, 43855
Newington Energy, LLC, 43855–43856
Snapping Shoals Electric Membership Corp., 43856
Timber Energy Resources, Inc., 43856
TransColorado Gas Transmission Co., 43857
Transcontinental Gas Pipe Line Corp., 43857
Transwestern Pipeline Co., 43857–43858

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Dane County, WI, 43952–43953

Federal Housing Finance Board
PROPOSED RULES
Federal home loan bank system:
Capital requirements
Correction, 43961
Uninsured credit limits
Correction, 43961

Federal Law Enforcement Training Center
NOTICES
Privacy Act:
Systems of records, 43955–43958

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Great Miami & Scioto Railway Co., 43953–43954
Los Angeles, Port of, 43955
Sound Transit, 43954
Traffic control systems; discontinuance or modification:
CSX Transportation, Inc., 43954–43955

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 43870
Formations, acquistions, and mergers, 43870

Fish and Wildlife Service
RULES
Endangered and threatened species:
Alabama lampmussel, etc. (16 freshwater mussels and 1 freshwater snail); nonessential experimental population status establishment in Tennessee River
Correction, 43808–43809
Migratory bird hunting:
Seasons, limits, and shooting hours; establishment, etc., 44009–44024
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 43882–43884
Comprehensive conservation plans; availability, etc.:
Wyandotte National Wildlife Refuge, MI, 43898
Endangered and threatened species:
Florida manatee conservation measures; watercraft access facility designs; interim strategy and guidance, 43885–43896

Endangered and threatened species permit applications, 43884–43885
Environmental statements; availability, etc.:
Survival enhancement permits—
Red-cockaded woodpecker; safe harbor agreement; Avalon Plantation Annex, Jefferson County, FL, 43896–43898
Marine mammal permit applications, 43898
Meetings:
Sport Fishing and Boating Partnership Council, 43898–43899

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Ponazuril paste, 43773–43774
Sponsor name and address changes—
Orion Corp. ORION-FARMOS, 43773

Food Safety and Inspection Service
NOTICES
Meetings:
Codex Alimentarius Commission—
Cocoa Products and Chocolate Codex Committee, 43835–43836
Nutrition and Foods for Special Dietary Uses Codex Committee, 43834–43835

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
California
Atlantic Richfield Co.; oil refinery complex; correction, 43961
Iowa
Deere & Co.; construction equipment manufacturing facility; correction, 43961

Forest Service
RULES
Administration:
National Forest System; appeal of decisions; obsolete rules removed, 43778–43779

General Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 43870–43871
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 43841–43843

Grain Inspection, Packers and Stockyards Administration
NOTICES
Stockyards; posting and deposting:
Martella Livestock Market, Inc., CA, et al., 43836

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
National Bioethics Advisory Commission, 43872

Health Resources and Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 43873

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

International Trade Administration
NOTICES
Antidumping:
Greenhouse tomatoes from—
Canada, 43838
Silicomanganese from—
Ukraine, 43838–43840
Steel concrete reinforcing bars from—
Turkey, 43840
Export trade certificates of review, 43840–43841

Labor Department
See Pension and Welfare Benefits Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 43906
Grants and cooperative agreements; availability, etc.:
Caribbean Labor Market Information System Project, 43906–43916

Land Management Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 43899–43902
Closure of public lands:
Montana and Wyoming, 43902–43904
Meetings:
Klamath Provincial Advisory Committee, 43904
Science Advisory Board, 43904–43905
Organization, functions, and authority delegations:
Oklahoma Field Office, OK; name change, 43905
Recreation management restrictions, etc.:
Washington State public lands; regulated fire closure, 43904
Survey plat filings:
New Mexico, 43905
Wyoming, 43905–43906

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 43841–43843

National Institutes of Health
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 43873–43874
Meetings:
National Center for Research Resources, 43874
National Institute of Neurological Disorders and Stroke, 43875
National Institute on Alcohol Abuse and Alcoholism, 43874–43875

Scientific Review Center, 43875–43876

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 43918

Natural Resources Conservation Service
NOTICES
Field office technical guides; changes:
Caribbean Area, 43836
Louisiana, 43836–43837

Nuclear Regulatory Commission
RULES
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list, 43761–43763
PROPOSED RULES
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list, 43810–43811
NOTICES
Committees; establishment, renewal, termination, etc.:
Nuclear Waste Advisory Committee, 43920–43921
Meetings; Sunshine Act, 43921
Applications, hearings, determinations, etc.:
Exelon Generating Co., LLC, 43918–43920
Nuclear Management Co., LLC, 43920

Pension and Welfare Benefits Administration
NOTICES
Meetings:
Employee Welfare and Pension Benefit Plans Advisory Council, 43917–43918

Presidio Trust
NOTICES
Meetings, 43921–43922

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Rural Utilities Service
NOTICES
Environmental statements; notice of intent:
East Kentucky Power Cooperative, Inc., 43837

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 43922–43923
Submission for OMB review; comment request, 43923–43924
Joint industry plan:
Chicago Board Options Exchange, Inc., 43924–43925
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 43925–43937
Chicago Board Options Exchange, Inc., 43937–43939
Chicago Stock Exchange, Inc., 43939
Depository Trust Co., 43939–43941
Emerging Markets Clearing Corp., 43941–43942
National Association of Securities Dealers, Inc., 43942–43944
Pacific Exchange, Inc., 43944–43947

Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 43876
Reports and guidance documents; availability, etc.:
Federal Workplace Drug Testing Program; Mandatory Guidelines; urine specimens validity determination standards, 43876–43882

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

Thrift Supervision Office
NOTICES
Applications, hearings, determinations, etc.:
First Charter, MHC, et al., 43958

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
NOTICES
Airports:
Airport congestion and airline flight delay relief; market-based approaches; comment request, 43947–43950
Aviation proceedings:
Hearings, etc.—
Aeronautica de Cancun, S.A., et al., 43950

Treasury Department
See Federal Law Enforcement Training Center
See Thrift Supervision Office

Veterans Affairs Department
NOTICES
Agency information collection activities—
Submission for OMB review; comment request, 43958–43960

Separate Parts In This Issue

Part II
Department of Agriculture, Animal and Plant Health Inspection Service, 43963–44003

Part III
Department of Education 44005–44007

Part IV
Department of Interior, Fish and Wildlife Service, 44009–44024

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.

9 CFR
54 43964
79 43964

10 CFR
72 43761

Proposed Rules:
72 43810

12 CFR

Proposed Rules:
925 43961
930 (2 documents) 43961
931 43961
932 (2 documents) 43961
933 43961

14 CFR
39 (4 documents) 43763, 43766, 43768, 43770

Proposed Rules:
39 (3 documents) 43811, 43814, 43815

21 CFR
510 43773
520 43773

32 CFR

Proposed Rules:
505 43818
806b 43820

33 CFR
165 (2 documents) 43774, 43776

34 CFR
674 44006
682 44006
685 44006

36 CFR
211 43778

40 CFR
52 (6 documents) 43779, 43783, 43788, 43795, 43796, 43797
271 43798
300 43806

Proposed Rules:
52 (3 documents) 43822, 43823
261 43823
271 43831
300 43831

50 CFR
17 43808
20 44010

Rules and Regulations

Federal Register
Vol. 66, No. 162
Tuesday, August 21, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG82

List of Approved Spent Fuel Storage Casks: Westinghouse MC–10 Termination

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the Westinghouse MC–10 cask system listing within the ''List of Approved Spent Fuel Storage Casks'' terminating Certificate of Compliance Number 1001 as requested by the Westinghouse Government Environmental Services Company.

DATES: The final rule is effective November 5, 2001, unless significant adverse comments are received by September 20, 2001.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at *http://ruleforum.llnl.gov.* You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. 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.

FOR FURTHER INFORMATION CONTACT: Jayne McCausland, telephone (301) 415–6219, e-mail jmm2@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart K within 10 CFR Part 72, which contained a list of spent fuel storage cask designs. Included in this list was Certificate of Compliance (CoC) No. 1001 for the Westinghouse MC–10 cask system.

Discussion

On February 19, 2001, the Westinghouse Government Environmental Services Company submitted a request (ADAMS ML010650146) to the NRC to terminate the § 72.214 listing of CoC No. 1001. Westinghouse indicated it does not desire to continue supporting the MC–10 cask design. Furthermore, no Part 72 general licensees currently use the MC–10 cask design. Therefore, the NRC has no objections to terminating CoC No. 1001 and is removing the CoC from the list of approved spent fuel storage cask designs contained in § 72.214.

The Westinghouse request (ADAMS ML010650146) is available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of this document may be obtained from Jayne McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, email jmm2@nrc.gov.

Discussion of Amendments by Section

Section 72.214—List of Approved Spent Fuel Storage Casks

Certificate No. 1001 is terminated by removing the listing of the certificate.

Procedural Background

This rule is limited to the removal of CoC No. 1001 from § 72.214 and does not include other aspects of the Westinghouse MC–10 cask system design. The NRC is using the ''direct final rule procedure'' to promulgate this removal because it represents a change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on November 5, 2001. However, if the NRC receives significant adverse comments by September 20, 2001, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the **Federal Register**. A significant adverse comment is a comment where the commenter

explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC would terminate the Westinghouse MC–10 cask system design listed in § 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing'' directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Finding of No Significant Environmental Impact: Environmental Assessment

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule will terminate the CoC for the Westinghouse MC–10 cask system from the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. This rulemaking is needed to remove the Westinghouse MC–10 listing from the ''List of approved spent fuel storage casks'' in § 72.214. Westinghouse Government Environmental Services Company indicated that it does not desire to continue supporting the MC–10 cask design. Furthermore, no Part 72 general licensees currently use the MC–10 cask design. Therefore, the NRC has no objections to terminating CoC No. 1001 and is removing the CoC from the list of approved spent fuel storage cask designs contained in § 72.214. The potential environmental impact of not using the Westinghouse MC–10 cask system will not compromise the public health and safety. The alternative to the proposed action would be to deny approval of the amendment. The proposed termination action now under consideration would not change the potential environmental effects because (1) There are other approved casks available for storage of spent nuclear fuel and (2) there currently is no spent nuclear fuel being stored under the general license provisions of Part 72 in this cask design. Therefore, the NRC staff has determined that there are no significant environmental impacts as a result of the termination. No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

Public Protection Notification

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

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. Included in the list of approved cask designs was the Westinghouse MC–10 cask design under CoC No. 1001. On February 19, 2001, the certificate holder (Westinghouse Government Environmental Services Company) requested that NRC terminate the listing of CoC No. 1001 from § 72.214. Furthermore, no Part 72 general licensee currently uses the MC–10 cask design.

This rule will remove the above listing from § 72.214. The alternative to this action is to withhold approval of this request. This alternative would cost both the CoC holder and the NRC time and resources because the regulatory burden requiring the CoC holder to respond to certain NRC requests, including but not limited to Information Notices, and the NRC to review the responses, would remain.

Approval of the direct final rule will eliminate the above described burden. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public

health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the Westinghouse Government Environmental Services Company. This company does not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

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

List of Subjects in 10 CFR part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

§ 72.214 [Amended]

2. In § 72.214, Certificate of Compliance 1001 is removed.

Dated at Rockville, Maryland, this 6th day of August, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–20993 Filed 8–20–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–401–AD; Amendment 39–12380; AD 2001–16–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD); applicable to certain Boeing Model 737–100, –200, and –200C series airplanes; that requires a one-time inspection of the carriage spindles on the outboard midflap for circumferential score marks; and rework of the carriage spindles or replacement with new or serviceable spindles, if necessary. This action is necessary to prevent severe flap asymmetry due to fractures of both carriage spindles at an outboard midflap, which could result in loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 25, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 25, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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: 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: 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 Boeing Model 737–100, –200, and –200C series airplanes was published in the **Federal Register** on April 12, 2001 (66 FR 18878). That action proposed to require a one-time detailed visual inspection of the carriage spindles on the outboard midflap for circumferential score marks; and rework of the carriage spindles or replacement with new or serviceable spindles, if necessary.

Comments

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

Inspection Methods

All of the commenters expressed concern about the proposed inspection methods.

Regarding the detailed visual inspection that is included as one acceptable method of inspection in Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999,

one of the commenters states that the proposed detailed visual inspection of the carriage spindle cannot be accomplished. The commenter states that surrounding airplane structure and a certain seal make it difficult to gain access to and properly clean the carriage spindle when the flap carriage assembly is installed on the airplane.

Regarding the borescopic inspection that is included in the service bulletin as another acceptable method of inspection, two of the commenters stated that the borescopic inspection specified in the service bulletin is not sufficient to detect circumferential score marks on the carriage spindles on the outboard midflap. The commenters state that routine applications of protective coatings such as primer or paint on the carriage spindles may obscure score marks.

One of the commenters, the airplane manufacturer, submitted this comment:

> The Boeing Company is of the opinion that the minimum acceptable inspection method to look for score marks on the carriage spindles (which the flap is attached to the flap t[r]acks) is the use of a borescope or equivalent method[;] otherwise[,] close visual inspection is acceptable provided the flaps are removed from the airplane for the purpose of inspecting the spindles for circumferential score marks.

The FAA infers that the commenters are requesting that we clarify what inspection methods are acceptable for compliance with this AD and what other actions must be accomplished on the airplane for these inspection methods to be used. We concur that some clarification is necessary. Our intent is that either the detailed visual or borescopic inspection methods described in the service bulletin are acceptable for compliance with this AD. For clarification, we have revised the summary of this final rule to remove the words ''detailed visual.''

With regard to the suitability of the borescopic inspection for finding score marks on the carriage spindle, we note that data in the Operator's Equipment Manual indicate that an inspection with a borescope is adequate to detect the score marks that are the subject of this AD. Accordingly, we have revised paragraph (a) of this AD to require either a detailed visual or borescopic inspection per the service bulletin.

With regard to accomplishing the detailed visual inspection without using a borescope, we note that the service bulletin clearly specifies that it is necessary to remove the outboard trailing edge flaps from the airplane before the detailed visual inspection of the carriage spindles can be carried out. However, to clarify this matter, and per the airplane manufacturer's comment stated above, we have added a new note, Note 3, to this final rule (and reordered subsequent notes accordingly). Note 3 states that removal of the outboard trailing edge flaps from the airplane is necessary for the detailed visual inspection, but an inspection using a borescope is acceptable if the flap carriages are not removed from the airplane.

Compliance Time

On behalf of one of its members, the Air Transport Association of America requests extension of the compliance time from 18 months to 36 months for accomplishment of the requirements of the proposed AD. The commenter states that this compliance time will allow accomplishment of the proposed actions during normal scheduled heavy maintenance visits and would provide ''a level of safety commensurate with the intent of the proposal.''

The FAA does not concur. 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, and the average utilization of the affected fleet. In light of these factors, the FAA finds an 18-month compliance time for completing the required actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. No change to the final rule is necessary in this regard. However, as noted in paragraph (c) of this AD, we will consider requests for approval of an alternative method of compliance or adjustment of the compliance time, provided that data are submitted which show that an acceptable level of safety will be maintained.

Removal and Destruction of Seal

One commenter expresses concern about cutting and removing a certain seal, which is necessary for accomplishing the inspection using a borescope, as specified in Figure 1 of the referenced service bulletin. The commenter is concerned that cutting the seal could allow fluids or debris to enter the area, resulting in long-term deleterious effects in the area previously protected by the seal. The commenter states that the airplane manufacturer responded to this concern by indicating that it is adequate to remove the seal to facilitate the proposed inspection and replace the seal only when the airplane is next overhauled after the inspection. The airplane manufacturer also indicated that replacement of a previously installed Teflon bearing with a new spherical bearing would result in no damage if small debris enters the area.

The FAA acknowledges that it is necessary to cut and remove the identified seal to perform the inspection with a borescope. For those operators who choose to use the borescope method of inspection, we find that the risk of damage associated with the missing segment of seal is low, as long as the seal is replaced at the next maintenance interval. We note, however, that it is not necessary to cut the seal in order to do the detailed visual inspection described in the service bulletin because the service bulletin provides an alternative method of gaining access to do this inspection. If the commenter is sufficiently concerned with the risk associated with the missing seal, the alternative method may be used, as specified in the service bulletin. No change to the final rule is necessary in this regard.

Cost Estimate

One commenter states that the FAA's estimate of 12 work hours does not reflect the true number of work hours necessary for the proposed inspection. The commenter states that the compliance time will necessitate that the proposed work be accomplished on the vast majority of airplanes at maintenance visits other than overhauls, which is the only maintenance visit in which access to the subject area would be readily available. The commenter notes that the referenced service bulletin estimates that 21 work hours would be necessary for the borescopic inspection or 68 work hours would be necessary for the detailed visual inspection. The commenter asks that the FAA revise the proposed rule to provide a more accurate cost estimate.

The FAA does not concur. The estimates of 21 and 68 work hours provided in the referenced service bulletin include time for gaining access, closing up, and testing. The cost impact analysis in AD rulemaking actions typically includes only the ''direct'' costs of the specific actions required by the AD, and does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 870 Model 737-100, -200, and -200C series airplanes of the affected design in the worldwide fleet. The FAA estimates that 320 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $230,400, or $720 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:

32001–16–11 Boeing: Amendment 39–12380. Docket 2000–NM–401–AD.

Applicability: Model 737–100, –200, and –200C airplanes without high gross weight flaps installed; 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 (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 severe flap asymmetry due to fractures of both carriage spindles at an outboard midflap, which could result in loss of controllability of the airplane, accomplish the following:

One-Time Detailed Visual Inspection

(a) Within 18 months after the effective date of this AD, do a one-time detailed visual or borescopic inspection of the outboard midflap carriage spindles for circumferential score marks per Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999.

Note 2: For the purposes of this AD, a detailed visual 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.''

Note 3: As specified in Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999, removal of the outboard trailing edge flaps from the airplane is necessary for the detailed visual inspection method to be used. A borescopic inspection according to the service bulletin is acceptable if the flap carriages are not removed from the airplane.

(1) If no scoring is found on any carriage spindle, no further action is required by this paragraph.

(2) If any scoring is found on any carriage spindle, before further flight, rework the carriage spindle, or replace it with a new or serviceable spindle per the service bulletin.

Spares

(b) As of the effective date of this AD, no person shall install any outboard midflap carriage spindle having a part number identified in paragraph 2.E. of Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999, on any airplane, unless the spindle has been inspected for score marks and reworked, as necessary, per the service bulletin.

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 4: 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 sections 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

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on September 25, 2001.

Issued in Renton, Washington, on August 13, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20803 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–248–AD; Amendment 39–12394; AD 2001–17–03]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all EMBRAER Model EMB–135 and –145 series airplanes. This action requires repetitive inspections of the engine thrust reverser stow/transit switches, and corrective action, if necessary. This action is necessary to prevent erroneous signals in the Engine Indicating and Crew Alerting System (EICAS) caused by internal corrosion of the thrust reverser stow/transit switches, which could result in uncommanded loss of engine power in flight, or unnecessary aborted takeoffs on the ground. This action is intended to address the identified unsafe condition.

DATES: Effective September 5, 2001.

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

Comments for inclusion in the Rules Docket must be received on or before September 20, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–248–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–248–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 this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Scott Geddie, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6068; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departmento de Aviacao Civil (DAC) , which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 series airplanes. The DAC advises that cases of internal corrosion have been found on the stow/transit switches installed in the engine thrust reversers of EMBRAER Model EMB–145 series airplanes. Erroneous messages of ''ENG ( ) REV DISAGREE'' or ''ENG ( ) REV FAIL'' have been displayed in the Engine Indicating and Crew Alerting System (EICAS) because of this corrosion. In one case, a transit switch severely contaminated by corrosion resulted in an uncommanded engine rollback to idle in flight. Several cases of aborted takeoffs have also been reported due to ''ENG ( ) REV DISAGREE'' messages during takeoff. This internal corrosion condition, if not corrected, could result in erroneous signals of the thrust reverser stow/transit switches, which could result in uncommanded loss of engine power in flight, or unnecessary aborted takeoffs on the ground.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 145–78–0029, dated February 2, 2001, which describes procedures for repetitive inspections of the stow/transit switches for possible internal corrosion by means of a field check with a megohmmeter for insulation resistance; and corrective action, if applicable. The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 2001–05–03, dated June 8, 2001, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

These airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, 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 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, this AD is being issued to prevent erroneous signals from being displayed on the EICAS, caused by internal corrosion of the thrust reverser stow/transit switches, which could result in uncommanded loss of engine power in flight, or unnecessary aborted takeoffs on the ground. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Interim Action

This is considered to be an interim action until final action is identified, at which time the FAA may consider further rulemaking.

Differences Between Proposed Rule and Foreign Airworthiness Directive

This AD differs from the parallel Brazilian airworthiness directive in that it requires repetitive inspections every 1,200 flight hours after the initial inspection, as recommended by EMBRAER Service Bulletin 145–78–0029, dated February 2, 2001. The parallel Brazilian airworthiness directive contains only a note that makes reference to a future revision of the airplane Maintenance Review Board (MRB) that will include periodic re-inspection.

Mandating the repetitive inspections specified in the service bulletin is based on the FAA's determination that, in this case, long-term continued operational safety would be better assured by continued monitoring until a design change can be made to remove the source of the problem.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications 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.

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 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 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–248–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, 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:

2001–17–03 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–12394. Docket 2001–NM–248–AD.

Applicability: All Model EMB–135 and –145 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 (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 erroneous signals in the Engine Indicating and Crew Alerting System (EICAS) caused by internal corrosion of the thrust reverser stow/transit switches, which could result in uncommanded loss of engine power in flight, or unnecessary aborted takeoffs on the ground, accomplish the following:

Initial and Repetitive Inspections, and Corrective Action, if Necessary

(a) Prior to the accumulation of 2,000 total flight hours, or within 400 flight hours after the effective date of this AD, whichever occurs later, perform the inspection required by paragraph (b) of this AD and repeat the inspection at intervals not to exceed 1,200 flight hours.

(b) Inspect each of the six stow/transit switches on the #1 and #2 engine thrust reversers by conducting a megohmmeter test to measure insulation resistance according to the Accomplishment Instructions of EMBRAER Service Bulletin 145–78–0029, dated February 2, 2001. If insulation resistance measures 100 megohms or less, before further flight, replace the switch with a new switch in accordance with the service bulletin.

Spares

(c) As of the effective date of this AD, no person shall install, on any airplane, a stow/transit switch part number 83–990–137 or 83–990–152 unless it has been inspected in accordance with 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, Atlanta 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, Atlanta ACO.

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

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 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

(f) The actions shall be done in accordance with EMBRAER Service Bulletin 145–78–0029, dated February 2, 2001. 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; 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 Brazilian airworthiness directive 2001–05–03, dated June 8, 2001.

Effective Date

(g) This amendment becomes effective on September 5, 2001.

Issued in Renton, Washington, on August 13, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20805 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–249–AD; Amendment 39–12395; AD 2001–17–04]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135ER and –135LR Series Airplanes, and Model EMB–145, –145ER, –145MR, and –145LR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–135ER and –135LR series airplanes, and Model EMB–145, –145ER, –145MR, and –145LR series airplanes. This action requires a one-time visual inspection to determine if the two bonding jumpers that connect the horizontal stabilizer to the vertical stabilizer are properly installed, and replacement of the jumper with a new jumper, if necessary. This action also requires a one-time visual inspection to determine if the supports that connect the bonding jumpers to the horizontal stabilizer are deformed, and corrective actions, if necessary. This action is necessary to prevent severed bonding jumpers in the event of a lightning strike, which could result in reduced elevator control capability, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 5, 2001.

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

Comments for inclusion in the Rules Docket must be received on or before September 20, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–249–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm–iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–249–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 this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos–SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6071; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135ER and –135LR series airplanes, and Model EMB–145, –145ER, –145MR, and –145LR series airplanes. The DAC advises that, during a post-lightning strike inspection of a Model EMB–145 series airplane, the bonding jumpers that electrically bond the vertical and horizontal stabilizers were found to be severed. In addition, one elevator cable was severed and the other elevator cable had arcing damage. The inspection revealed that the bonding jumpers were overstretched and subsequently severed during the lightning strike. When the bonding jumpers severed, they made contact with the elevator cables, which resulted in damage to the elevator cables. This condition, if not corrected, could result in reduced elevator control capability, and consequent reduced controllability of the airplane, due to severed bonding jumpers.

Explanation of Relevant Service Information

EMBRAER has issued Alert Service Bulletin 145–55–A025, dated June 5, 2001, which describes procedures for performing a one-time general visual inspection to determine if the two

bonding jumpers that connect the horizontal to the vertical stabilizers are properly installed (not misaligned, damaged, or showing signs of previous elongation), and replacing the bonding jumper with a new jumper, if necessary. The alert service bulletin also specifies procedures for determining if the mechanical tension between the bonding jumpers and the reference line is 5 millimeters or less, and corrective action (replacing the bonding jumper), if necessary. Additionally, the alert service bulletin describes procedures for performing a one-time general visual inspection to determine if the supports that connect the bonding jumpers to the horizontal stabilizer are deformed, cracked, or ruptured. The alert service bulletin describes corrective actions to repair or replace the connecting support with a new connecting support, as applicable. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this alert service bulletin as mandatory and issued Brazilian airworthiness directive 2001–06–03, dated June 13, 2001, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

These airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, 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 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, this AD is being issued to prevent severed bonding jumpers, which could result in reduced elevator control capability, and consequent reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Difference Between This AD and the EMBRAER Alert Service Bulletin

The EMBRAER alert service bulletin specifies that any bonding jumper that is mechanically tensioned outside the limits specified in the alert service bulletin may be replaced within the next 100 flight hours after the inspection. This AD, however, requires that the replacement of a bonding jumper, if necessary, must be accomplished before further flight after the inspection. In developing an appropriate compliance time for this AD, the FAA considered not only the DAC's requirements in the Brazilian airworthiness directive and the manufacturer's recommendations, 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 inspection (less than one hour). In light of all of these factors, the FAA finds that the ''before further flight'' compliance time, in this case, to be warranted.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications 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.

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 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 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–249–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, 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:

2001–17–04 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–12395. Docket 2001–NM–249–AD.

Applicability: Model EMB–135ER and –135LR series airplanes, and Model EMB–145, –145ER, –145MR, and –145LR series airplanes, as listed in EMBRAER Alert Service Bulletin 145–55–A025, dated June 5, 2001; 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if 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 severing of the bonding jumpers that connect the vertical stabilizer to the horizontal stabilizer, which could result in reduced elevator control capability, and consequent reduced controllability of the airplane; accomplish the following:

Inspection of the Bonding Jumpers

(a) Within the next 100 flight hours after the effective date of this AD, perform a detailed visual inspection to determine if the two bonding jumpers that connect the horizontal to the vertical stabilizers are properly installed, per EMBRAER Alert Service Bulletin 145–55–A025, dated June 5, 2001.

Note 2: For the purposes of this AD, a detailed visual 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.''

Follow-on Action

(b) If both bonding jumpers are installed properly, before further flight, determine if the jumpers are mechanically tensioned to a slack distance of 5 millimeters (mm) or less between the reference line and the jumper as specified in View E of EMBRAER Alert Service Bulletin 145–55–A025, dated June 5, 2001.

(1) If any slack distance is 5 mm or less, before further flight, replace the bonding jumper with a new jumper having part number (P/N) LN926416X165, per the alert service bulletin.

(2) If any slack distance is 6 mm or more, at the time specified in paragraph (d) of this AD, accomplish those actions specified in paragraph (d) of this AD.

Corrective Actions

(c) If either bonding jumper is not installed properly (e.g., misaligned, signs of previous elongation, or damage), before further flight, replace the bonding jumper with a new jumper having P/N LN926416X165, in accordance with EMBRAER Alert Service Bulletin 145–55–A025, dated June 5, 2001.

Inspection of the Connecting Supports

(d) Within the next 100 flight hours after the effective date of this AD, perform a detailed visual inspection to determine if the supports that connect the bonding jumpers to the horizontal stabilizers are deformed, cracked, or ruptured, per EMBRAER Alert Service Bulletin 145–55–A025, dated June 5, 2001.

(1) If no deformation is detected, no further action is required by this paragraph.

(2) If any connecting support having deformation of 30 degrees or less has any sign of a painting discrepancy, before further flight, repaint the support per the alert service bulletin. The support must remain in the position it was found, as specified in the alert service bulletin.

(3) If any connecting support is deformed above 30 degrees or any signs of cracking or ruptures are detected, before further flight, replace the connecting support with a new support per the alert service bulletin.

Alternative Methods of Compliance

(e) 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, Atlanta 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, Atlanta ACO.

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

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 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

(g) The actions shall be done in accordance with EMBRAER Alert Service Bulletin 145–55–A025, dated June 5, 2001. 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Brazilian airworthiness directive 2001–06–03, dated June 13, 2001.

Effective Date

(h) This amendment becomes effective on September 5, 2001.

Issued in Renton, Washington, on August 13, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20806 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–410–AD; Amendment 39–12381; AD 2001–16–12]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, and –30F (KC–10A Military) Series Airplanes, and Model MD–10–10F and –30F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, and –30F (KC–10A military) series airplanes, and Model MD–10–10F and –30F series airplanes, that currently requires repetitive inspections to determine the condition of the lockwires on the forward engine mount bolts and correction of any discrepancies found. That AD also provides for optional terminating actions for the repetitive inspections. This amendment requires accomplishment of the previously optional terminating actions. This amendment is prompted by a report of discrepant forward engine mount bolts at the number 3 engine. The actions specified by this AD are intended to

prevent broken lockwires, which could result in loosening of the engine mount bolts, and consequent separation of the engine from the airplane.

DATES: Effective September 25, 2001.

The incorporation by reference of McDonnell Douglas DC–10 Service Bulletin 71–133, Revision 6, dated June 30, 1992; McDonnell Douglas Service Bulletin DC10–71–159, dated September 6, 1995; and McDonnell Douglas Service Bulletin DC10–71–159, Revision 01, dated July 28, 1997; as listed in the regulations, is approved by the Director of the Federal Register as of September 25, 2001.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin DC10–71A159, Revision 1, dated January 31, 1995; as listed in the regulations, was approved previously by the Director of the Federal Register as of November 10, 1999 (64 FR 54202, October 6, 1999).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–04–07 R2, amendment 39–11354 (64 FR 54202, October 6, 1999), which is applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, and –30F (KC–10A military) series airplanes, and Model MD–10–10F and –30F series airplanes, was published in the **Federal Register** on March 21, 2001 (66 FR 15817). The action proposed to continue to require repetitive inspections to determine the condition of the lockwires on the forward engine mount bolts and correction of any discrepancies found. The action also proposed to require accomplishment of the previously optional terminating actions.

Comments Received

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

Support for the Proposed Rule

Two commenters express support for the proposed rule.

Request To Revise Applicability and Clarify Terminating Actions

One commenter requests that the ''Applicability'' of the proposed rule be revised to specify that it would not apply to certain airplanes on which, not only McDonnell Douglas DC–10 Service Bulletin 71–133, Revision 6, dated June 30, 1992, has been accomplished (as specified in the applicability of the proposed rule); but also would not apply to certain airplanes on which McDonnell Douglas Service Bulletin DC10–71–159, dated September 6, 1995, or Revision 01, dated July 28, 1997, has been accomplished. The commenter also requests that paragraph (b) of the proposed rule be clarified to specify that, for certain models, the terminating action may be accomplished in accordance with either McDonnell Douglas Service Bulletin 71–133, or McDonnell Douglas Service Bulletin DC10–71–159. The commenter states that the proposed rule, as written, implies that both service bulletins must be accomplished for the terminating action.

The FAA agrees with the commenter, and has determined that clarification is needed. It is the intent of the FAA to permit terminating action to be completed in accordance with either of the referenced service bulletins. We have revised the ''Applicability'' and paragraph (b) of the final rule to specify that, for certain models, compliance with the terminating action may be accomplished by either of the service bulletins noted above. Since the terminating actions for Model DC–10–30 and –30F (KC–10A military) series airplanes are now completely addressed in paragraph (b) of the final rule, we have revised paragraph (c) of the final rule to remove reference to those models and specify that the applicability of paragraph (c) of the final rule applies only to McDonnell Douglas Model DC–10–10 and –15 series airplanes, and Model MD–10–10F series airplanes.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 389 Model DC–10–10, –15, –30, and –30F (KC–10A military) series airplanes, and Model MD–10–10F and –30F series airplanes, of the affected design in the worldwide fleet. The FAA estimates that 229 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 95–04–07 R2, and retained in this AD, take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $27,480, or $120 per airplane, per inspection cycle.

Should an operator be required to accomplish the terminating installation specified in McDonnell Douglas DC–10 Service Bulletin 71–133, it will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per hour. Required parts will cost between $2,744 and $2,822 per airplane. Based on these figures, the cost impact of the terminating installation required by this AD on U.S. operators is estimated to be between $2,984 and $3,062 per airplane.

Should an operator be required to accomplish the terminating modification specified in McDonnell Douglas Service Bulletin DC10–71–159, it will take approximately 16 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost between $2,744 and $2,822 per airplane. Based on these figures, the cost impact of the terminating modification required by this AD on U.S. operators is estimated to be between $3,704 and $3,782 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 39–11354 (64 FR 54202, October 6, 1999), and by adding a new airworthiness directive (AD), amendment 39–12381, to read as follows:

2001–16–12 McDonnell Douglas: Amendment 39–12381. Docket 2000–NM–410–AD. Supersedes AD 95–04–07 R2, Amendment 39–11354.

Applicability: The following airplanes, certificated in any category:

Model	Excluding airplanes
1. DC–10–30 and –30F (KC–10A military) series airplanes, and MD–10–30F series airplanes.	On which bolt retainers have been installed on the engine mount per McDonnell Douglas DC–10 Service Bulletin 71–133, Revision 6, dated June 30, 1992, or on which the modification specified in McDonnell Douglas Service Bulletin DC10–71–159, dated September 6, 1995, or Revision 01, dated July 28, 1997, has been performed.
2. DC–10–10 and –15 series airplanes, and Model MD–10–10F series airplanes.	On which the modification specified in McDonnell Douglas Service Bulletin DC10–71–159, dated September 6, 1995, or Revision 01, dated July 28, 1997, has been done.

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 (d)(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 broken lockwires, which could result in loosening of the engine mount bolts, and consequent separation of the engine from the airplane, accomplish the following:

Restatement of Requirements of AD 95–04–07 R2, Amendment 39–11354

(a) Within 120 days after March 17, 1995 (the effective date of AD 95–04–07 R1, amendment 39–9317), unless accomplished previously within the last 750 flight hours prior to March 17, 1995, perform a visual inspection to detect broken lockwires on the forward engine mount bolts on engines 1, 2, and 3, in accordance with McDonnell Douglas Alert Service Bulletin DC10–71A159, Revision 1, dated January 31, 1995.

(1) If no lockwire is found broken, repeat the inspection thereafter at intervals not to exceed 750 flight hours.

(2) If any lockwire is found broken, prior to further flight: Check the torque of the bolt, install a new lockwire, and install a torque stripe on the bolt, in accordance with the alert service bulletin. Thereafter at intervals not to exceed 750 flight hours, perform a visual inspection to detect misalignment of the torque stripes, and repeat the inspection to detect broken lockwires, in accordance with the alert service bulletin.

Terminating Actions

(b) For Model DC–10–30 and –30F (KC–10A military) series airplanes, and Model MD–10–30F series airplanes: Within 18 months after the effective date of this AD, install retainers on the engine mount bolts of engine 1, 2, or 3 per the procedures depicted in Figure 6 of Revision 6 of McDonnell Douglas DC–10 Service Bulletin 71–133, dated June 30, 1992; or modify the forward engine mount bolts for engine 1, 2, or 3, per McDonnell Douglas Service Bullletin DC10–71–159, dated September 6, 1995, or Revision 01, dated July 28, 1997. Accomplishment of the installation constitutes terminating action for the requirements of this AD for that engine.

(c) For Model DC–10–10 and –15 series airplanes, and Model MD–10–10F series airplanes: Within 18 months after the effective date of this AD, modify the forward engine mount bolts for engine 1, 2, or 3, per McDonnell Douglas Service Bulletin DC10–71–159, dated September 6, 1995; or Revision 01, dated July 28, 1997. Accomplishment of the modification constitutes terminating action for the requirements of this AD for that engine.

Alternative Methods of Compliance

(d)(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, Los Angeles 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, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 95–04–07 R2, amendment 39–11354, are approved as alternative methods of compliance with this AD.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 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

(f) The actions shall be done in accordance with McDonnell Douglas DC–10 Service Bulletin 71–133, Revision 6, dated June 30, 1992; McDonnell Douglas Service Bulletin DC10–71–159, dated September 6, 1995, or McDonnell Douglas Service Bulletin DC10–71–159 RO1, Revision 01, dated July 28, 1997; and McDonnell Douglas Alert Service Bulletin DC10–71A159, Revision 1, dated January 31, 1995; as applicable.

(1) The incorporation by reference of McDonnell Douglas DC–10 Service Bulletin 71–133, Revision 6, dated June 30, 1992; McDonnell Douglas Service Bulletin DC10–71–159, dated September 6, 1995; and McDonnell Douglas Service Bulletin DC10–71–159 R01, Revision 01, dated July 28, 1997;

is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas Alert Service Bulletin DC10–71A159, Revision 1, dated January 31, 1995, was approved previously by the Director of the Federal Register as of November 10, 1999 (64 FR 54202, October 6, 1999).

(3) Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on September 25, 2001.

Issued in Renton, Washington, on August 13, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20804 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name and address for Orion Corp. ORION-FARMOS.

DATES: This rule is effective August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Orion Corp. ORION-FARMOS, P.O. Box 425, SF–20101 Turku, Finland, has informed FDA of a change of sponsor's name and address to Orion Corp., Orionintie 1, 02200 Espoo, Finland. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor's name and address.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for "Orion Corp. ORION-FARMOS" and in the table in paragraph (c)(2) by revising the entry for "052483" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Orion Corp., Orionintie 1, 02200 Espoo, Finland	052483
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
052483	Orion Corp., Orionintie 1, 02200 Espoo, Finland
* * * * * * *	

Dated: July 31, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–20982 Filed 8–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ponazuril

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Bayer Corp., Agriculture Division, Animal Health. The NADA provides for veterinary prescription use of ponazuril

paste for the treatment of protozoal myeloencephalitis in horses.

DATES: This rule is effective August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540.

SUPPLEMENTARY INFORMATION: Bayer Corp., Agriculture Division, Animal Health, P.O. Box 390, Shawnee Mission, KS 66201, filed NADA 141–188 that provides for veterinary prescription use of Marquis™ (ponazuril) EPM Paste for the treatment of equine protozoal myeloencephalitis caused by *Sarcocystis neurona*. The NADA is approved as of July 19, 2001, and the regulations are amended in 21 CFR part 520 by adding § 520.1855 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning July 19, 2001, because no active ingredient (including any ester or salt of the drug) has been previously approved in any other application filed under section 512(b)(1) of the act.

The agency has determined under 21 CFR 25.33(d)(1) 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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1855 is added to read as follows:

§ 520.1855 Ponazuril.

(a) *Specifications*. Each gram of paste contains 150 milligrams (mg) ponazuril.

(b) *Sponsor*. See No. 000859 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount*. 5 mg per kilogram body weight, daily for 28 days.

(2) *Indications for use*. For the treatment of equine protozoal myeloencephalitis caused by *Sarcocystis neurona*.

(3) *Limitations*. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: August 1, 2001.

Linda Tollefson,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 01–20983 Filed 8–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska–01–002]

RIN 2115–AA97

Safety Zone; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, AK

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. The zone is needed to protect the safety of persons and vessels operating in the vicinity of the safety zone during a rocket launch from the Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island facility. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Commander, Seventeenth Coast Guard District, or the Coast Guard Captain of the Port, Western Alaska, or his on scene representative. The intended affect of the safety zone is to ensure the safety of human life and property during the rocket launch.

DATES: This temporary final rule is effective from 2 p.m. on August 31, 2001, until 7:30 p.m. on September 15, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket COTP Western Alaska-01–002 and are available for inspection or copying at Coast Guard Marine Safety Office Anchorage, 510 ''L'' Street, Suite 100, Anchorage, AK 99501 between 7:30 a.m. to 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Diane Kalina, Marine Safety Office Anchorage, at (907) 271–6700.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. The parameters of the zone will not unduly impair business and transits of vessels. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of each launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners. Because the hazardous condition is expected to last for approximately 5 hours of each day for 16 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic is expected to be minimal. Therefore, notice and comment is unnecessary. Additionally, the process of scheduling a rocket launch is uncertain due to unforeseen delays that can cause cancellation of the launch. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to protect human life and property from possible fallout from the rocket launch. This safety zone should have minimal impact on vessel transits and announcements via Broadcast Notice to Mariners will give vessels advanced notice of the launch.

Background and Purpose

The Alaska Aerospace Development Corporation (AADC) will attempt to launch an unmanned rocket from their

facility at Narrow Cape, Kodiak Island, Alaska sometime between 5 p.m. and 7 p.m. each day between August 31, 2001 and September 15, 2001. The safety zone is necessary to protect spectators and transiting vessels from the potential hazards associated with the launch.

The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of the launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners. Because the hazardous condition is expected to last for approximately 5 hours of each day for 16 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic is expected to be minimal.

Discussion of Regulation

From the latest information received from the Alaska Aerospace Development Corporation, the launch window is scheduled for 5 hours each day between August 31, 2001 and September 15, 2001. The size of the safety zone has been set based upon the trajectory information in order to provide a greater safety buffer in the event that the launch is aborted shortly after take-off. The safety zone includes an area in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. Specifically, the zone encompasses all waters of the Gulf of Alaska that are within the area bounded by a line drawn from a point located at 57° 28′ North, 152° 25′ West, thence south to a point located at 57° 09′ North, 152° 25′ West, thence northeast to a point located at 57° 14.5′ North, 151° 59′ West, thence north northeast to a point located at 57° 28′ North, 151° 51.5′ West, and thence west to the point located at 57° 28′ North, 152° 25′ West. All coordinates reference Datum: NAD 1983.

This safety zone is necessary to protect spectators and transiting vessels from the potential hazards associated with the launch of the rocket. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of the launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit, anchor, or fish in a portion of the Gulf of Alaska off Ugak Island and Narrow Cape from 2 p.m. to 7:30 p.m. from August 31, 2001 to September 15, 2001. Because the hazardous condition is expected to last for approximately five hours of each day for sixteen days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic should be minimal. Before the effective period, we will issue maritime advisories widely available to users of the affected portion of the Gulf of Alaska. We believe there will be minimal impact to small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Consultation and Coordination With Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.401–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T–01–002 to read as follows:

§ 165.T–01–002 Safety Zone: Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island, AK.

(a) *Description.* This safety zone includes an area in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. Specifically, the zone includes the waters of the Gulf of Alaska that are within the area bounded by a line drawn from a point located at 57° 28′ North, 152° 25′ West, thence south to a point located at 57° 09′ North, 152° 25′ West, thence northeast to a point located at 57° 14.5′ North, 151° 59′ West, thence north northeast to a point located at 57° 28′ North, 151° 51.5′ West, and thence west to the point located at 57° 28′ North, 152° 25′ West. All coordinates reference Datum: NAD 1983.

(b) *Effective dates.* This section is effective from 2 p.m. on August 31, 2001, until 7:30 p.m. on September 15, 2001.

(c) *Regulations.*

(1) The Captain of the Port and the Duty Officer at Marine Safety Office, Anchorage, Alaska can be contacted at telephone number (907) 271–6700.

(2) The Captain of the Port may authorize and designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf in enforcing the safety zone.

(3) The general regulations governing safety zones contained in Title 33 Code of Federal Regulations, § 165.23 apply. No person or vessel may enter or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port or his on scene representative. In the vicinity of Narrow Cape, the Captain of the Port, Western Alaska's on scene representative may be contacted onboard the U. S. Coast Guard cutter via VHF marine channel 16.

Dated: August 6, 2001.

W.J. Hutmacher,

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

[FR Doc. 01–21083 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–055]

RIN 2115–AA97

Safety Zone; Sister Bay MarinaFest, Sister Bay, Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Sister Bay for the Sister Bay Marinafest 2001 fireworks display. This safety zone is necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. This safety zone is intended to restrict vessel traffic from a portion of the Sister Bay marina, Sister Bay, Wisconsin.

DATES: This temporary rule is effective from 8:30 p.m. until 10 p.m. (CST) on September 1, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–055] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application did not allow sufficient time for publication of an NPRM followed by a temporary final rule effective 30 days after publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays and the possible loss of life, injury, and damage to property.

Background and Purpose

This safety zone is established to safeguard the public from the hazards associated with launching of fireworks by Sister Bay marina, Sister Bay, Wisconsin. The size of the zone was determined by using previous experiences with fireworks displays in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone will be in effect on September 1, 2001, from 8:30 p.m. until 10 p.m. (CST). The safety zone will encompass all waters bounded by the arc of a circle with a 420-foot radius with its center in approximate position 45° 10.60′ N, 087° 06.60′ W, offshore Sister Bay marina, Sister Bay, Wisconsin. The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents. These coordinates are based upon North American Datum 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless

authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

Regulatory Evaluation

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

Small Entities

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

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

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in the vicinity of Sister Bay marina from 8:30 p.m. until 10 p.m. (CST) on September 1, 2001.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only one hour and thirty minutes on one day and late in the day when vessel traffic is minimal. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative. Before the effective period, we will issue maritime advisories widely available to users of the Sister Bay.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

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

Indian Tribal Governments

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

Energy Effects

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T09–992 is added as read as follows:

§ 165.T09–992 Safety Zone: Waters off Sister Bay Marina, Sister Bay, Wisconsin.

(a) *Location.* The safety zone encompasses all waters of Lake Michigan bounded by the arc of a circle

with a 420-foot radius with its center in approximate position 45°10.60′ N, 087°06.60′ W (approximately 420 feet offshore Sister Bay marina). These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Effective period.* From 8:30 p.m. until 10 p.m. on September 1, 2001.

(c) *Regulations.*

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

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

(3) This safety zone should not adversely effect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: August 10, 2001.

M.R. DeVries,

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

[FR Doc. 01–21084 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

Appeal of Decisions Concerning the National Forest Service; Removal of Outdated Rules

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule removes from the Code of Federal Regulations the rules on Appeal of Decisions Concerning the National Forest System. These rules, which contain termination dates that are long past, are obsolete and have been suspended by the rules on appeal procedures for National Forest System Projects and Actions. The presence of the obsolete rules in the Code of Federal Regulations is causing public confusion about which rules to follow in filing appeals.

DATES: This rule is effective August 21, 2001.

ADDRESSES: Written inquiries about this rule may be sent to the Director, Ecosystem Management Coordination Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Gary Wetterberg, Forest Service, USDA; Telephone (202) 205–0917.

SUPPLEMENTARY INFORMATION: The rule governing administrative appeals of Forest Service decisions at 36 CFR part 211, subpart B, consist of three sections. Section 211.16 concerns appeal of resource recovery and rehabilitation decisions resulting from natural catastrophes. Its procedures do not apply to any appeal received after February 22, 1989 (36 CFR 211.16(o)). Section 211.17 concerns appeal of decisions to reoffer returned or defaulted timber sales on National Forests. Its procedures do not apply to any decision signed on or after September 13, 1991 (36 CFR 211.17(q)). Section 211.18 concerns appeal of decisions of forest officers made prior to February 21, 1989 (36 CFR 211.18)(s)).

The processes for appealing National Forest System decisions as established in 36 CFR 211.16 and 211.18 were superseded on January 23, 1989, by adoption of the rules at 36 CFR parts 217 and 251 (54 FR 3342). The rules at 36 FR part 217 offered the public a process for the administrative appeal of decisions relating to land and resource management plans, projects, and activities. The rule at 36 FR part 251, subpart C, was, and continues to be, limited to appeal of decisions regarding written instruments authorizing occupancy and use of National Forest System Lands. At the time these new rules were adopted, the Department made corollay amendments to § 211.16 and 211.18 (54 FR 3342) to make clear they were not applicable to decisions rendered after February 21 and February 22, 1989, respectively. Subsequently, the remaining appeal rule at 36 CFR 211.17 was amended to apply only to decisions signed before September 13, 1991 (56 FR 46549).

Some individuals and groups seeking to appeal Forest Service decisions have become confused by the presence of the now outdated and superseded rules at 36 CFR part 211, subpart B. As recently as March 29, 2001, and April 2, 2001, citizens filed a request for second level review of project of decisions on the Plumas National Forest pursuant to 36 CFR 211.18. In spite of the time and effort the appellants spent drafting their appeals, the Forest Service could not provide the second level reviews requested, because they were filed pursuant to regulations long since terminated. The appellants apparently did not notice the termination date in paragraph (q) of § 211.18 and were unaware of the fact that the decisions they sought to appeal were subject to the appeal process in 36 CFR part 215 adopted November 4, 1993 (58 FR 58910).

Therefore, it is in the public interest to remove from the Code of Federal Regulations the obsolete rules at 36 CFR part 211, subpart B, in order to reduce public confusion. However, it should be noted that the removal of this rule will not alter conditions of any settlement agreement with appellants reached under the provisions of the rules at 36 CFR part 211, subpart B.

Regulatory Certifications

Regulatory Impact

This is not a significant rule. The rule will not have an annual effect of $100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. It will not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, the rule will not alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, the rule is not subject to Office of Management and Budget (OMB) review under Executive Order 12866. Moreover, this rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not have a significant economic impact on a substantial number of small entities as defined by the Act. This rule will not impose recordkeeping requirements; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

Environmental Impact

This rule has no direct or indirect effect on the environment. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement rules, regulations or policies to establish Service-wide administrative procedures, program processes, or instructions.

No Takings Implications

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order

12360, and it has been determined that the rule will not pose the risk of a taking of private property, as the rule serves only to clarify appeals procedures by removing outdated information.

Civil Justice Reform

This rule has been reviewed under Executive order 12988, Civil Justice Reform. It (1) does not preempt State and local laws and regulations that conflict with or impede its full implementation; (2) has no retroactive effect; and (3) will not require administrative proceedings.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this rule on State, local, and tribal governments and the private sector. This rule will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Federalism and Consultation and Coordination With Tribal Governments

The Department has considered this rule under the requirements of Executive Orders 12612 and 13132 and concluded that the rule does 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, the Department has determined that no further assessment of federalism implications is necessary at this time.

Moreover, this rule does not have tribal implications as defined in Executive order 13175 and, therefore, advance consultation with tribes is not required.

Controlling Paperwork Burdens on the Public

This rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. In fact, the removal of the obsolete rules may serve to reduce paperwork, as people are less likely to attempt to use these invalid processes for appeals. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

Energy Effects

This final rule has been reviewed under Executive order 13211 of May 18, 2001, and it has been determined that this rule has no effect on the supply, distribution, or use of energy. This rule is a ministerial act to remove from the Code of Federal Regulations, rules which have, by their own terms, expired. Therefore, the preparation of a statement of energy effects is not required.

List of Subjects in 36 CFR Part 211

Administrative practice and procedure, Fire prevention, Intergovernmental relations, National forests.

Therefore, for the reasons set forth in the preamble, part 211 of Title 36, Code of Federal Regulations is amended as follows:

PART 211—ADMINISTRATION

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

Authority: 16 U.S.C. 472, 498, 551.

Subpart B—[Removed and Reserved]

2. Subpart B consisting of §§ 211.16 through 211.18 is removed and reserved.

Dated: July 5, 2001.

Dale N. Bosworth,

Chief.

[FR Doc. 01–20088 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–11–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4139a; FRL–7037–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Five Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for five major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 5, 2001 without further notice, unless EPA receives adverse written comment by September 20, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182 or Pauline Devose at (215) 814–2186, the EPA Region III address above or by e-mail at *quinto.rose@epa.gov* or *devose.pauline@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA,

RACT as specified in sections 182(b)(2) and 182(f)) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and (3) all major non-CTG sources. The regulations imposing RACT for these non-CTG major sources were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995. The Pennsylvania SIP already includes approved RACT regulations for all sources and source categories covered by the CTGs. On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy) or more, and a major source of NO_X is defined as one having the potential to emit 100 tpy or more. Pennsylvania's RACT regulations require sources, in the Pittsburgh area, that have the potential to emit 50 tpy or more of VOC and sources which have the potential to emit 100 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a ''generic'' RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP. On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/ NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Pittsburgh area.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On January 10, 1996, July 24, 1998, April 9, 1999, February 2, 2001 and April 19, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to five of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approvals (PAs) and operating permits (OPs) issued by PADEP. These five sources are located in the Pittsburgh area. The table below identifies the sources and individual PAs and OPs which are the subject of this rulemaking. A summary of the VOC and RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Operating permit (OP#), plan approval (PA#)	Source type	''Major source'' pollutant
BASF Corporation—Monaca Site	Beaver	OP 04–000–306	Polymer production	VOC/ NO_X
Equitrans, Inc.—Hartson Station	Washington	OP 63–000–642	Internal combustion (IC) engines.	NO_X
Nova Chemicals, Inc	Beaver	OP 04–000–033	Thermoplastic resin manufacturing.	VOC/NO_X
Ranbar Electrical Materials, Inc	Westmoreland	OP 65–000–042	Paint and resin manufacturing.	VOC
Witco Corporation—Petrolia	Butler	PA 10–037	Specialty oil manufacturer.	VOC/NO_X

A. BASF Corporation

BASF Corporation (BASF) is a polymer production facility located in Monaca, Beaver County, Pennsylvania. BASF is a major VOC and NO_X emitting facility. In this instance, RACT has been established and imposed by PADEP in an OP. On April 19, 2001, PADEP submitted OP 04–000–306 to EPA as a SIP revision. BASF produces various styrene/butadiene dispersion emulsions. OP 04–000–306 requires BASF and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and management practices. Equipment at BASF's Monaca facility includes the following: (1) Raw material storage tanks with associated unloading equipment; (2) styrene/butadiene (S/B) production area; and (3) Acronal production area. OP 04–000–306 requires all raw material storage tanks except the versene tank to be vented to the thermal oxidizing unit (TOU) or the flare. OP 04–000–306 also requires S/B pre-mix tanks, reactors and strippers be vented to the TOU or the flare, except during emergency venting. The S/B pre-mix tank contents shall be transferred to the S/B reactors using pumps. The emissions from the S/B strippers shall go through the closed loop, non-contact condenser, on the way to the TOU or the flare. The Acronal pre-emulsion tanks, and reactors shall be vented to the TOU or the flare, except during emergency venting. OP 04–000–306 requires the TOU and the flare to achieve an overall collection and destruction efficiency of 99 percent. The TOU shall maintain tan exhaust temperature of 1800 degrees Fahrenheit for a residence time of one second. The TOU shall be the primary control device used to destroy VOC vent emissions. OP 04–000–306 requires the owner and operator to continue to administer a fugitive leak detection and repair (LDAR) program and comply with the following record keeping requirements: (a) Record the temperature of the TOU and/or flare at least two times per shift; (b) maintain records of all start-ups, shutdowns and malfunctions of the TOU and the flare; (c) keep records of the LDAR program; and (d) all records shall be maintained for at least five years.

B. Equitrans, Inc., Hartson Station

Equitrans, Inc. (Equitrans), located in Pittsburgh, Washington County, Pennsylvania uses stationary reciprocating internal combustion (IC) engines to pump natural gas. Equitrans is a major NO_X emitting facility. In this instance, RACT has been established and imposed by PADEP in an OP. On January 10, 1996 and September 13, 1996, PADEP submitted this OP 63–000–642 to EPA as a SIP revision. OP 63–000–642 requires Equitrans and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and management practices. OP 63–000–642 requires the emission rates of each Cooper Bessemer GMV–10 engine to meet the annual NO_X emission limits of 108 tons per year (tpy) and hourly emissions of 43 pounds per hour (lb/hr). The non-methane volatile organic carbon (NMVOC) limits for these engines are 3 tpy and 1 lb/hr. Each Cooper Bessemer GMV–10 engine shall be limited to 5000 hours annually. OP 63–000–642 is required to conduct a minimum of one stack test in accordance with 25 PA Code section 139 and PADEP's Source Testing Manual, while engines are operating at full load and full speed during the ozone season (April to October). All sources operating 750 hours or more during the preceding ozone season shall conduct a stack test semi-annually through either an EPA stack test or through the use of portable analyzers. All sources operating less than 750 hours during the preceding ozone season shall conduct a stack test annually through either an EPA stack test or through the use of portable analyzers. For those test utilizing portable analyzers, Equitrans shall submit a complete operating procedure to PADEP at least 60 days prior to the stack test. The accuracy of the portable analyzer readings shall be verified by operation and recording of readings during the EPA method stack testing.

Results from the stack tests using portable analyzers shall be maintained for one year. Equitrans is required to submit a pretest protocols for review at least 60 days prior to conducting the stack test, notice to PADEP that a stack test is to be performed at least two weeks prior to conducting the stack test (so that an observer may be present), and a stack test report to PADEP within 60 days of testing. All annual limits must be met on a rolling monthly basis in every 12 month period. Equitrans is required to maintain records in accordance with the record keeping requirements of 25 PA Code section 129.95 and shall retain records for at least two years. At a minimum, the source must record operating hours, daily fuel consumption, operating pressures, and operating temperatures for each engine. Emission reductions in the allowable emission rates below the level specified above, are not surplus reductions pursuant to 25 PA Code section 127.206, and thus, may not be used to generate Emission Reduction Credits (ERCs).

C. Nova Chemicals, Inc.

Nova Chemicals, Inc. (Nova) is a thermoplastic resin manufacturing facility located in Potter Township, Beaver County, Pennsylvania. Nova is a major VOC and NO_X emitting facility. In this instance, RACT has been established and imposed by PADEP in an OP. On February 2, 2001, PADEP submitted OP 04–000–033 to EPA as a SIP revision. OP 04–000–033 requires Nova and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and management practices. OP 04–000–033 is for the operation of VOC emission sources subject to 25 PA Code section 129.91. In any consecutive 12 month period, VOC emissions from the following emission units shall not exceed:

Source	Emissions (tons)
Unit D2	186
Unit D3—(Dylene)	11
Unit D3—(Dylite) & Unit D4—(Dylite)	253
Dylark	9
D3 Extrusion (P–20 Compounding Line #2)	2
D3 Extrusion (Lines 1, 3, 4, and S.P.)	7
Field Storage	5
Plant (miscellaneous)	3
Total Facility Wide	468

To demonstrate compliance with the limits, OP 04–000–033 requires the owner/operator of Nova to maintain records in accordance with 25 PA Code 129.95. Nova shall utilize a PADEP approved parametric monitoring plan. Monitoring data shall be recorded on log sheets, computer media, paper printouts, strip charts, or a combination of these. Summary reports for all required monitoring shall be submitted to PADEP every 12 months. The Styrene facility has been permanently shutdown. The post RACT NO_X emission limits for the units of the shutdown facility are as follows:

Two natural gas fired superheaters—30 tons/1 year

Two natural gas fired boilers—24 tons/1 year 54 tons/1 year

The post VOC RACT for the total process areas for VOC emissions, shall not exceed 40 tons in any consecutive 12 month period.

D. Ranbar Electrical Materials, Inc.

Ranbar Electrical Materials, Inc. (Ranbar) is a paint and resin manufacturing facility located in Manor,

Westmoreland County, Pennsylvania. Ranbar is a major VOC emitting facility. In this instance, RACT has been established and imposed by PADEP in an OP. On April 19, 1999, PADEP submitted OP 65–000–042 to EPA as a SIP revision. OP 65–000–042 requires Ranbar and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and management practices. This permit is for the continued operation of the Manor Plant and modifications of the ducting of the resin thinning tank exhausts to an existing fume incinerator at the facility. Under OP 65–000–042, facility-wide VOC emissions shall not exceed 112.1 tons per year (tpy) combined total, in any 12 month consecutive period. VOC emissions for the individual sources shall not exceed the following: (1) resin manufacturing: 37.6 tpy; and (2) paint manufacturing: 72.4 tpy. Ranbar shall keep a daily record of the quantity of all coatings, diluents, and cleaning solvents used and/or manufactured. At a minimum, the record shall contain the gallons of each coating produced, the gallons of solvents used and the weight percent of organic volatiles in the coating and/or solvents. Ranbar shall maintain the above records for all coatings and cleaning solvents in stock or shipped off-site for disposal for a period of five years. Ranbar shall submit an annual report, to include the total amount of each type of coating manufactured for the previous year's operation. Ranbar shall install, maintain, and operate all combustion sources in accordance with the manufacturer's specifications. Ranbar shall maintain records in accordance with the record keeping requirements of 25 PA Code section 129.95. All records shall be maintained for at least two years.

E. Witco Corporation—Petrolia

Witco Corporation—Petrolia (Witco-Petrolia) is a specialty oil manufacturing facility located in Petrolia, Butler County, Pennsylvania. Witco-Petrolia is a major VOC and NO_X emitting facility. In this instance, RACT has been established and imposed by PADEP in a PA. On July 24, 1998, PADEP submitted PA 10–037 to EPA as a SIP revision. Under PA 10–037, the VOC control for the emissions from the methanol storage tanks shall be a passive vent collection system with a packed tower scrubber. Witco-Petrolia shall install, test, operate and maintain the vent collection and packed tower in accordance with conditions specified in the PA. The methanol fugitive emissions shall be controlled by the use of the facility's LDAR program which shall be in compliance with 25 PA Code section 129.58. PA 10–037 requires the combustion units not to exceed the following NO_X limits:

Source	NO_X emission limit (lb/MMBTU, tpy)
Boiler #7	0.180, 53.1
Boiler #12 (gas)	0.180, 40.9
Boiler #12 (oil)	0.40, 40.9
Boiler #14	0.180, 32.3

To demonstrate compliance with the emission limits shown above, Witco-Petrolia shall maintain NO_X emissions on a quarterly rolling average. Boilers #7, #12, and #14 shall have an annual adjustment or tune-up that will consist of an inspection, adjustment, cleaning or replacement of fuel burning equipment, inspection and adjustment of the flame characteristics, and the inspection and adjustment of the air-to-fuel control system. The tune-up shall be performed in accordance with EPA document ''Combustion Efficiency Optimization Manual for Operators of Oil and Gas-fired Boilers'', EPA–340/1–83–023, September 1983. PA10–037 requires the reject stripper (30 MMBTU/hr), boiler #8 (28.1 MMBTU/hr), and boiler #11 (35 MMBTU/hr) to comply with the presumptive SIP-approved RACT requirements of 25 PA Code section 129.93(b). Witco-Petrolia shall maintain and operate the presumptive NO_X sources (less than 20 MMBTU/hr) in accordance with the manufacturer's specifications. The sources shall also be operated and maintained in accordance with good air pollution control practices. PA10–037 also requires Witco-Petrolia to comply with the record keeping requirements of 25 PA Code section 129.95.

III. EPA's Evaluation of the SIP Revisions

EPA is approving these RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. PADEP has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_X RACT for five major sources located in the Pittsburgh area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 5, 2001 without further notice unless EPA receives adverse comment by September 20, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section or paragraph of that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' See 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 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as

specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for five named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 5, 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 approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from five individual sources in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen Oxides, Ozone, Reporting and recordkeeping requirements.

Dated: August 10, 2001.

Judith Katz,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(173) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(173) Revisions pertaining to VOC and NO_X RACT for major sources, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on January 10, 1996, July 24, 1998, April 9, 1999, February 2, 2001 and April 19, 2001.

(i) Incorporation by reference.

(A) Letters dated January 10, 1996, July 24, 1998, April 9, 1999, February 2, 2001 and April 19, 2001 submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and NO_X RACT determinations.

(B) Plan Approvals (PAs) and Operating Permits (OPs) for the following sources:

(*1*) Equitrans, Inc., OP 63–000–642, effective July 10, 1995, except for the Permit Term.

(*2*) Witco Corporation, Petrolia Facility, PA 10–037, effective June 27, 1995.

(*3*) Ranbar Electrical Materials, Inc., OP 65–000–042, effective February 22, 1999, except for the Permit Term and conditions 11, 12, 13 and 14.

(*4*) Nova Chemicals, Inc., OP 04–000–033 (Permit No. 04–0033), effective as reissued January 24, 2001, except for the Permit Term and conditions 8, 9, and 10.

(*5*) BASF Corporation, OP 04–000–306, effective March 23, 2001.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations submitted for the sources listed in paragraph (c)(173)(i)(B) of this section.

[FR Doc. 01–21030 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4143a; FRL–7038–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eight Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for eight major sources of volatile organic compounds (VOC) and nitrogen oxides

(NO_X). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 5, 2001 without further notice, unless EPA receives adverse written comment by September 20, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Janice Lewis at (215) 814–2185, or Betty Harris at (215) 814–2168, the EPA Region III address above or by e-mail at *lewis.janice@epa.gov* or *harris.betty@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and (3) all major non-CTG sources. The regulations imposing RACT for these non-CTG major sources were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995.

The Pennsylvania SIP already includes approved RACT regulations for all sources and source categories covered by the CTGs. On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy) or more, and a major source of NO_X is defined as one having the potential to emit 100 tpy or more. Pennsylvania's RACT regulations require sources, in the Pittsburgh area, that have the potential to emit 50 tpy or more of VOC and sources which have the potential to emit 100 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a ''generic'' RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Pittsburgh area.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case by case RACT determination for a major source of NO_X in no way relieves that source from any

applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On December 8, 1995, July 1, 1997, and April 19, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO_X. This rulemaking pertains to eight of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of operating permits, enforcement orders and consent orders which impose VOC and/or NO_X RACT requirements for each source. These eight sources are all located in the Pittsburgh area. The table below identifies the sources and the individual operating permits (OP), enforcement orders (EO), and consent orders CO) which are the subject of this rulemaking. A summary of the VOC and NO_X RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	PA #, OP #, or EO #	Source type	"Major source" pollutant
Ashland Petroleum Company	Allegheny	CO 256	Refinery	VOC
BP Exploration & Oil, Inc	Westmoreland	OP 65–0378	Refinery	VOC
Gulf Oil, L. P	Allegheny	CO 250	Refinery	VOC
Penreco	Butler	OP 10–027	Refinery	NO_X/VOC
Bellefield Boiler Plant	Allegheny	EO 248	Cogen	NO_X
PA Dept. of Corrections	Allegheny	EO 244	Cogen	NO_X
Pittsburgh Allegheny County Thermal	Allegheny	CO 265	Cogen	NO_X
Pittsburgh Thermal Limited Partnership	Allegheny	CO 220	Cogen	NO_X

A. Ashland Petroleum Company

Ashland Petroleum Company (Ashland) is a petroleum storage, blending and distribution facility located in Floreffe, Pennsylvania. Ashland is a major source of VOC. On December 19, 1996, the Allegheny County Health Department (ACHD) issued a Plan Approval and Agreement Upon Consent Order (CO 256) to establish and impose RACT on Ashland. The PADEP submitted CO 256, on behalf of the ACHD, to EPA as a SIP revision. Under CO 256, Ashland must not exceed 50 tons of VOC per year. This limit must be met on a rolling monthly basis over every consecutive 12 month period. Under CO 256, Ashland must maintain all records and testing data to demonstrate compliance with Section 2108.06 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements shall include the following: type of VOC-containing products stored; and an annual throughput of VOC-containing products processed and/or distributed. All records shall be maintained for at least two years. Under CO 256, Ashland must operate and maintain all equipment according to good engineering and air pollution control practices.

B. BP Exploration & Oil, Inc.

BP Exploration & Oil, Inc. (BP) is a petroleum terminal station located in Hempfield, Pennsylvania. BP is a major source of VOC. On March 23, 2001, PADEP issued an operating permit (OP–65–000–378) to establish and impose RACT on BP. Under OP 65–000–378, RACT is the use of a Vapor Recovery Unit. The VOC emissions from the Vapor Recovery Unit must not exceed a rate of 60 mg/L. In addition, OP 65–000–378 requires the facility not to exceed 48.14 tons per year (tpy) of VOC on a 12-month rolling basis. BP must record and report the Vapor Recovery Unit's throughput of gasoline and kerosene, the VOC emissions from each source including the emission factors and their origin used to calculate the VOCs. BP must properly operate and maintain all equipment according to good engineering and air pollution control practices in accordance with applicable PADEP regulations.

C. Gulf Oil, L.P.

Gulf Oil, L.P. (Gulf) is a petroleum storage and distribution facility located in Neville, Pennsylvania. Gulf is a major source of VOC. On December 19, 1996, ACHD issued a Plan Approval and Agreement Upon Consent Order (CO 250) to establish and impose RACT on Gulf. The PADEP submitted CO 250, on behalf of the ACHD, to EPA as a SIP revision. Under CO 250, Gulf shall not, at any time, store VOC with vapor pressures greater than 1.5 psia, in any storage tank with a volume greater than 40,000 gallons, unless the storage tank is equipped with a floating roof to control VOC emissions. Under CO 250, the total VOC emissions from marine vessel loading must not exceed 21 tons per year on a rolling monthly basis over every consecutive 12-month period. Under CO 250, Gulf must maintain all records to demonstrate compliance, provide sufficient data and all required calculations with the requirements of Section 2105.06 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements shall include the following: type and annual throughput of VOCs stored and distributed at the facility. All records shall be maintained for at least two years. Under CO 250, Gulf must operate and maintain all process equipment according to good engineering and air pollution control practices.

D. Penreco

Penreco is a refinery facility located in Karns City, Pennsylvania. Penreco is a major source of NO_X and VOCs. Penreco has three boilers, five furnaces, two flare units, two retort units and presumptive VOC sources. On May 31, 1995, PADEP issued an operating permit (OP–10–027) to establish and impose RACT on Penreco. The OP 10–027 requires RACT for boilers #1, #5 and #6 to be an annual tune-up and testing. The NO_X limits must not exceed the following:

Source	NO_X lbs/MMBTU
Boiler #1	0.1 (natural gas) and 0.14 (oil).
Boiler #5	0.605.
Boiler #6	0.59.

The boilers must be tested annually by the portable analyzer. Stack testing may be required in accordance with EPA reference methods, pending the submission of the results from the portable analyzer. Under OP 10–027, the annual capacity factor for the flares shall not exceed 5% (33 MMBtu/hr for the hydrotreater flare and 15 MMBtu/hr for the kerosene/naphtha flare). Under the OP 10–027, all sources subject to

SIP-approved presumptive RACT (five furnaces, two flare units, two retort units and presumptive VOC sources) at Penreco must be installed, maintained, and operated in accordance with manufacturers specifications. Under OP 10–027 , Penreco shall comply with the record keeping requirements of 25 PA Code section 129.95. Penreco must properly operate and maintain all processes according to good engineering and air pollution control practices in accordance with applicable PADEP regulations.

E. Bellefield Boiler Plant

Bellefield Boiler Plant (Bellefield) is a steam generation facility located in Pittsburgh, Pennsylvania. Bellefield is a major source of NO_X. On December 19, 1996, the ACHD issued an EO (EO 248) to establish and impose RACT on Bellefield. The PADEP submitted EO 248, on behalf of the ACHD, to EPA as a SIP revision. There are seven boilers located at the Bellefield facility. The EO 248 requires that the NO_X emissions from the seven boilers not exceed the following:

Boiler No.	NO_X lbs/mMBtu	TPY
Boiler #1	0.92	376
Boiler #2	0.47	258
Boiler #3	0.63	242
Boiler #4	0.47	241
Boiler #5	0.59	261
Boiler #6	0.28	191
Boiler #7	0.20	65

Under EO 248, Bellefield must not allow the annual average heat input for the natural gas burner in boiler #3 to exceed 64MMBtu/hr or 560,640 MMBtu/yr based on a natural gas heat content of 1,028 Btu/ft^3. Under EO 248, Bellefield must determine compliance for this condition by maintaining records of natural gas use for the burner. Under EO 248, Bellefield is required to perform emission testing on boilers 1—6 every five years in accordance with applicable EPA approved test methods and Section 2108.02 of Article XXI of the ACHD's air pollution control regulations. Compliance with the above referenced lbs/MMBtu standards for the six boilers must be determined by an average of three one-hour stack tests. Under EO 248, boiler #7 must not operate unless a NO_X continuous emission monitoring (CEM) system is in place all times. Boiler #7 must properly operate and maintain the CEM according to 40 CFR, part 60, Db. Under EO 248, Bellefield must maintain all records and testing data to demonstrate compliance with Section 2105.06 of Article XXI of the ACHD's air pollution control regulations. Annual limits must be met on a rolling monthly basis over every consecutive 12 month period. Record keeping requirements must include the following: type and amount of fuel usage per boiler, (tons/day and or MMSCF/day); steam load per boiler, (lbs/day): and operating hours per boiler, (hours/day and days/year). Under EO 248, Bellefield must maintain all records, inspections calibrations and /or replacement of fuel-burning equipment (e.g. replacement of burners, adjustments of flame patterns and/or air-to-fuel ratios). Under EO 248, Bellefield must operate and maintain all equipment according to good engineering and air pollution control practices.

F. PA Dept. of Corrections

Pennsylvania Department of Corrections (DOC) is a state correctional institution located in Pittsburgh, Pennsylvania. DOC is a major source of NO_X. On January 23, 1997, the ACHD issued an EO (EO 244) to establish and impose RACT on DOC. The PADEP submitted EO 244, on behalf of the ACHD, to EPA as a SIP revision. There are three boilers located at the DOC facility. Under EO 244, boilers #1, #2 and #3 must not operate unless an annual adjustment and/or tuneup is performed on the combustion process. The annual adjustment and/or tuneup must include, but not be limited to: inspection, adjustment, cleaning or replacement of fuel-burning equipment, including burners and moving parts necessary for the proper operation as specified by the manufacturer; inspection of the flame pattern or characteristics and adjustments necessary to minimize total emissions of NO_X; and inspection of the air-to-fuel ratio control system and adjustments necessary to ensure proper calibration and operation as specified by the manufacturer. Under EO 244, the operating records must contain the following: the date of the adjustment procedure; the name of the service company and technicians; the operating rate or load after adjustment; the NO_X emission rate after adjustment; and the excess oxygen rate after adjustment. Under EO 244, DOC must maintain all records and testing data to demonstrate compliance with Section 2105.06 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements must include the following: fuel type and usage for each combustion unit. Under EO 244, DOC must operate and maintain all equipment according to good engineering and air pollution control practices.

G. Pittsburgh Allegheny County Thermal, Ltd.

Pittsburgh Allegheny County Thermal, Ltd. (PACT) is a steam generation facility located in Pittsburgh, Pennsylvania. PACT is a major source of NO_X. On November 9, 1998, the ACHD issued a Plan Approval and an Agreement Upon Consent Order (CO 265) to establish and impose RACT on PACT. The PADEP submitted CO 265, on behalf of the ACHD, to EPA as a SIP revision. There are four boilers located at the PACT facility. Under CO 265, NO_X emissions must not exceed the following:

Boiler No.	NO_X lbs/mMBtu	TPY
Boiler #1	0.22	126.5
Boiler #2	0.22	126.5
Boiler #3	0.22	126.5
Boiler #4	0.22	126.5

The annual limits must be met on a rolling monthly basis over every consecutive 12 months. Under EO 265, PACT is restricted to the use of natural gas or No. 2 fuel oil. Under CO 265, PACT must perform NO_X emission testing on boilers every two years to demonstrate compliance in accordance with EPA-approved test methods. Under CO 265, PACT must maintain all records and testing data to demonstrate compliance with Section 2105.06 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements must include the following: production data on a daily basis for each boiler; total fuel consumption and type consumed; amount of fuel usage, (MMBtu/day and/or gallons/day); steam load, (Mlbs/day); and total operating hours, (hours/day) and (hours/year). All records shall be maintained for at least two years. Under CO 265, PACT shall not operate boilers unless all process equipment and O_2 trim equipment are properly operated and maintained according to good engineering practices. Under CO 265, PACT must operate and maintain all equipment according to good engineering and air pollution control practices.

H. Pittsburgh Thermal Limited Partnership

Pittsburgh Thermal Limited Partnership (PTLP) is a steam generation facility located in Pittsburgh, Pennsylvania. PTLP is a major source of NO_X. On March 4, 1996, the ACHD issued CO 220 to establish and impose RACT on PTLP. The PADEP submitted CO 220, on behalf of the ACHD, to EPA as a SIP revision. There are three boilers located at the PTLP facility. Under CO

220, NO_X emissions must not exceed the following:

Unit No.	NO_X lbs/ mMBtu	TPY
Boiler #1	0.145	54.2
Boiler #2	0.145	54.2
Boiler #3	0.145	77.3

Under CO 220, PTLP shall not operate boilers unless all process equipment and O_2 trim equipment are properly operated and maintained according to good engineering practices. Fuel usage for boilers shall be natural gas only with the exception of emergency conditions and/or natural gas curtailment. Under CO 220, PTLP must perform NO_X emission testing on boiler #3 every two years to demonstrate compliance. Testing must be conducted in accordance with applicable EPA approved test methods and Section 2108.02 of Article XXI of the ACHD's air pollution control regulations. Under CO 220, PTLP must maintain all records and testing data to demonstrate compliance with applicable EPA approved test methods and Section 2105.06 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements must include the following, but not be limited to:

(1) Production data on a daily basis for each boiler including fuel consumption and type consumed, amount of fuel usage (MMBtu/day and/ or gallon(s)/day), steam load (Mlbs/day), and (d) total operating hours, (hours/ day) and (hours/year); and (2) All operation, maintenance, inspection, calibration and/or replacement of fuel burning equipment (i.e. replacement of burner(s), adjustment of flame pattern and/or air-to-fuel ratio, etc). All records shall be retained for at least two years. Under CO 220, PTLP must operate and maintain all equipment according to good engineering and air pollution control practices.

III. EPA's Evaluation of the SIP Revision

EPA is approving these SIP revisions because ACHD and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in its SIP-approved RACT regulations applicable to these sources. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_X RACT for eight major of sources located in the Pittsburgh area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 5, 2001 without further notice unless EPA receives adverse comment by September 20, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' See 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 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for eight named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 5, 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 approving the Commonwealth's source-specific RACT requirements to control VOC and or NO_X from eight individual sources in the Pittsburgh-Beaver Valley area of Pennsylvania may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen Oxides, Ozone, Reporting and record-keeping requirements.

Dated: August 10, 2001.

Judith Katz,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(177) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(177) Revisions pertaining to Chapter 129 for VOC and NO_X RACT for sources located in the Pittsburgh-Beaver Valley nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on December 8, 1995, July 1, 1997, and April 19, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of operating permits, enforcement orders, and consent orders on the following dates: December 8, 1995, July 1, 1997, and April 19, 2001.

(B) Operating Permits (OP), Enforcement Orders (EO), and Consent Orders (CO) issued to the following sources:

(*1*) Penreco, OP 10–027, effective May 31, 1995.

(*2*) Ashland Petroleum Company, CO 256, effective December 19, 1996, except for condition 2.9.

(*3*) Bellefield Boiler Plant, EO 248, effective December 19, 1996.

(*4*) Gulf Oil L. P., CO 250, effective December 19, 1996, except for condition 2.5.

(*5*) PA Dept. of Corrections, EO 244, effective January 23, 1997.

(*6*) Pittsburgh Thermal Limited Partnership, CO 220, effective March 4, 1996, except for condition 2.5.

(*7*) BP Exploration & Oil, Inc., Greensburg Terminal, OP 65–000–378, effective March 23, 2001.

(*8*) Pittsburgh Allegheny County Thermal, Ltd., CO 265, effective November 9, 1998, except for condition 2.5.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(177)(i)(B), of this section.

[FR Doc. 01–21028 Filed 8–20–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4138a; FRL–7038–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eleven Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for eleven major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 5, 2001 without further notice, unless EPA receives adverse written comment by September 20, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Catherine Magliocchetti (215) 814-2174, or Ellen Wentworth (215) 814–2034 at the EPA Region III address above or by e-mail at *magliocchetti.catherine@epa.gov.* or *wentworth.ellen@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the

Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f)) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are:

(1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment;

(2) All sources covered by a CTG issued prior to November 15, 1990; and

(3) All major non-CTG sources. The regulations imposing RACT for these non-CTG major sources were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995.

The Pennsylvania SIP already includes approved RACT regulations for all sources and source categories covered by the CTGs. On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy) or more, and a major source of NO_X is defined as one having the potential to emit 100 tpy or more. Pennsylvania's RACT regulations require sources, in the Pittsburgh area, that have the potential to emit 50 tpy or more of VOC and sources which have the potential to emit 100 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a ''generic'' RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/ NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Pittsburgh area.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case by case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

On January 21, 1997, July 1, 1997, March 3, 1999, April 9, 1999, and July 5, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to eleven of those sources. The RACT determinations for the other sources are, or have been, the subject of separate rulemakings. The Commonwealth's submittals consist of Operating Permits (OPs) issued by PADEP and Plan Approvals and Agreement Upon Consent Orders (COs) issued by the Allegheny County Health Department (ACHD). The PADEP submitted the COs to EPA as SIP revisions on behalf of the ACHD. These OPs and COs impose VOC and/or NO_X RACT requirements for each source. These sources are all located in the Pittsburgh area.

II. Summary of the SIP Revisions

The table below identifies the sources and their respective OPs and COs which are the subject of this rulemaking. A summary of the VOC and NO_X RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	OP # or CO #	Source type	''Major source'' pollutant
J&L Structural, Inc.—Aliquippa	Beaver	OP 04–000–467	Mill Reheat furnace	NO_X/VOC
J&L Specialty Steel, Inc.—Midland Facility	Beaver	OP 04–000–013	Steelmaking & Finishing	NO_X/VOC

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES—Continued

Source	County	OP # or CO #	Source type	"Major source" pollutant
LTV Steel Company, Inc.	Allegheny	CO 259	Coke Production Facility	NO_X/VOC
Universal Stainless & Alloy Products, Inc.	Allegheny	CO 241	Steel Products Plant	NO_X/VOC
U.S. Steel Clairton Works	Allegheny	CO 234	Coke Production Facility	NO_X/VOC
USX Corporation, US Steel Group, Edgar Thomson Works.	Allegheny	CO 235	Steel Production Facility	NO_X/VOC
USX Corporation, US Steel Group, Irvin Works	Allegheny	CO 258	Steel Production Facility	NO_X/VOC
Washington Steel Corporation	Washington	OP 63–000–023	Furnaces & Pickling Lines	NO_X
Wheeling-Pittsburgh Steel Corporation	Washington	OP 63–000–066	Combination Natural Gas/Oil Fired Furnace.	NO_X
Koppers	Westmoreland	OP 65–000–853	Coke Works	NO_X/VOC
Shenango, Inc.	Allegheny	CO 233	Coke Production Facility	NO_X/VOC

A. J & L Structural, Inc.—Aliquippa

J & L Structural, Inc. is a mill reheat furnace plant in Aliquippa Borough, Pennsylvania. The PADEP issued OP 04–000–467 to impose RACT for the reheat furnace at this source. Under this permit, J & L Structural, Inc.'s Aliquippa's facility was required to shut down the 14″ mill reheat furnace by May 31, 1997. The NO_X emissions from this facility were limited to 331 tons per year (tpy) and records were required to clearly demonstrate compliance with this condition. For the purposes of emission credit generation pursuant to 25 PA Code section 127.207(1)(i), RACT for the 14'' mill reheat furnace has been determined to be the installation of ultra low-NO_X burners with a control efficiency of 49 percent.

B. J & L Specialty Steel, Inc.—Midland Facility

J & L Specialty Steel, Inc.'s Midland facility is a steelmaking and finishing process facility located in Midland Boro, Pennsylvania. J & L Specialty Steel, Inc.'s Midland facility is a major source of NO_X and VOC. The PADEP issued OP 04–000–013 to impose RACT for the units at this source. Under this permit, J & L Specialty Steel, Inc.'s Midland facility is required to conduct annual tune-ups at the facility on all combustion units with a rated heat capacity between 20 MMBtu/hr and 50 MMBtu/hr. These tune-ups must be conducted in accordance with 25 PA Code section 192.93(b)(2). J & L Specialty Steel, Inc.'s Midland facility is subject to the record keeping requirements of 25 PA Code section 129.95. At each Z-mill at the Midland facility, VOC emissions are limited to 27.6 tpy. The EAF baghouse is limited to VOC emissions of 92 tpy. The Cold Anneal Pickle (CAP) line HNO_3/HF scrubber is limited to 76 tpy of NO_X. The Hot Anneal Pickle (HAP) line HNO_3 scrubber is limited to 41 tpy of NO_X. The EAF baghouse is limited to 1270 tpy of NO_X. J & L Specialty Steel, Inc.'s Midland facility is required to perform stack testing on the CAP line HNO_3/HF scrubber, the HAP line HNO_3 scrubber, and the EAF baghouse, to determine the emission rate of NO_X as NO_2. J & L Specialty Steel, Inc.'s Midland facility is required to perform stack testing on each Z-mill and the EAF baghouse to determine the emission rates of VOC. All stack testing shall be performed in accordance with 25 PA Code Chapter 139, and the PADEP's Source Testing Manual. The source is required to submit pre-test protocols to PADEP, to notify PADEP that stack testing will take place (so that an observer may be present), and to provide PADEP with two copies of the stack test results. All annual limits must be met on a rolling monthly basis over every consecutive 12-month period.

C. LTV Steel Company, Inc.

LTV Steel Company, Inc., is a coke production facility located in Pittsburgh, Pennsylvania. LTV Steel Company, Inc., is a major NO_X and VOC emitting facility. In this instance, RACT has been established and imposed by the ACHD in CO 259. The PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. The ACHD issued CO 259 to impose RACT on subject units at the facility. Under this CO, LTV Steel Company, Inc., is required to maintain and operate the following units in accordance with good engineering and air pollution control practices: (1) Coke batteries P–1, P–2, P–3N, P–3S, and P–4; (2) Babcock and Wilson boilers 1 through 5 (Southside Boilers); (3) Riley boilers 1 through 3; (4) Keeler boilers 4 through 6; (5) Package boiler; and the (6) By-product plant. LTV Steel Company, Inc., is precluded from allowing NO_X emissions from Boilers B & W 1, 2, 3, 4, and 5 to exceed 0.329 lbs/MMBtu, and 331 tpy. LTV Steel Company, Inc., is also precluded from operating the By-product plant unless the nitrogen gas blanketing system is being properly maintained and operated at all times while the plant process units blanketed by the system are emitting VOCs, with the exception of emergency or planned outages, repairs or maintenance. All VOC emissions processed by the blanketing system shall be incinerated by combustion in the facility's combustion units. LTV Steel Company, Inc., shall determine the compliance of Southside Boilers 1 through 5 by emission testing for NO_X every two years. The emission testing shall be conducted according to EPA-approved methods and section 2108.02 of Article XXI of ACHD's regulations. LTV Steel Company, Inc. shall retain all records required by both section 2105.06 of Article XXI, and the CO for at least two years and they shall be made available to the ACHD upon request. LTV Steel Company, Inc. shall maintain all appropriate records to demonstrate compliance with the requirements of section 2105.06 of Article XXI and CO 259. Records shall include fuel type and usage for the units specified above. LTV Steel Company, Inc. is also subject to additional post-RACT requirements to reduce NO_X.

D. Universal Stainless & Alloy Products, Inc.

Universal Stainless & Alloy Products, Inc., is a specialty steel products facility located in Bridgeville, Pennsylvania. Universal Stainless & Alloy Products, Inc., is a major NO_X and VOC emitting facility. In this instance, RACT has been established and imposed by the ACHD in CO 241. The PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. The ACHD issued CO 241 to impose RACT on subject equipment at the facility. Under this CO, Universal Stainless & Alloy Products, Inc. is required to maintain and operate the following equipment in accordance with

good engineering practice and manufacturer's specifications: (a) the electric arc furnace; (b) the argon-oxygen decarburization vessel; (c) the ladle reheat furnace; (d) the vessel reheat furnace; (e) the ingot reheat furnace; (f) the teeming process; (g) the hot rolling process; (h) Annealing furnaces No. 3 through 11; (i) Reheat furnaces No. 3 through 20; and (j) the Space heaters. Universal Stainless & Alloy Products, Inc., shall retain all records required by both section 2105.06 of Article XXI and this order for at least two years, and they shall be made available to the PADEP upon request. Such records shall provide sufficient data and calculations to clearly demonstrate that all requirements of section 2105.06 of Article XXI and CO 241 are being met. Data and information required to determine compliance shall include, but not be limited to the production and operating records for the electric arc furnace, the AOD vessel, the teeming process, and the hot rolling process. Universal Stainless and Alloy Products, Inc., shall at all times maintain records of fuel type and fuel usage for the facility including certifications from fuel suppliers for all types of liquid fuel. For each shipment of distillate oils number 1 or 2, a certification that the fuel complies with ASTM D396–78 ''Standard Specifications for Fuel Oils'' is required. For residual oils, minimum record keeping includes a certification from the fuel supplier of the nitrogen content of the fuel, and identification of the sampling method and protocol.

E. U.S. Steel Clairton Works

U.S. Steel's Clairton Works is a coke production facility located in Clairton, Pennsylvania. U.S. Steel's Clairton Works facility is a major NO_X and VOC emitting facility. In this instance, RACT has been established and imposed by the ACHD in CO 234. The PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. The ACHD issued CO 234 to impose RACT on processing equipment at the facility. Under this CO, U.S. Steel's Clairton Works facility is required to maintain and operate the following equipment in accordance with good engineering and air pollution control practices:

(1) Coke Batteries No. 1, 2, 3, 7, 8, 9, 13, 14, 15, 19, 20 and Battery B
(2) Pushing Emission Control System for the batteries specified in (1), above
(3) Boilers No. 1, 2, 13, 14, R1, R2, T1, and T2
(4) By-Products Plant Clean Coke Oven Gas Blanketing System and all process units blanketed by this system
(5) Scot Plant Incinerator
(6) Wastewater Treatment Plant

The following units at this source are limited to NO_X emissions as follows: Boilers No. 1, 2, 13, 14, R1, R2, T1, and T2 have a NO_X limit of 0.54 lbs/MMBtu. Boiler No. 1 is subject to a 1,740 tpy NO_X limit. Boiler No. 2 is subject to a 1,285 tpy NO_X limit. Boilers No. 13 and 14 are subject to a NO_X limit of 282 tpy. Boilers No. R1 and R2 are subject to a NO_X limit of 525 tpy. Boilers No. T1 and T2 are subject to a NO_X limit of 358 tpy. NO_X emission testing shall be performed every two years on these units, and conducted according to EPA approved test methods and section 2108.02 of Article XXI. Boilers No. 1 and 2 shall have properly maintained and operated Continuous Monitoring Systems (CEM) or approved alternatives, meeting all the requirements of section 2108.03 of Article XXI at all times with the exception of emergency or planned outages, repairs or maintenance. The NO_X emissions limit for Boilers No. 1 and 2 shall be determined by a thirty day rolling average and by a twelve month rolling average of CEM data for the above limits. U. S. Steel's Clairton Works facility shall not operate the By-products plant unless the clean coke oven gas blanketing system is being properly maintained and operated at all times while the plant process units blanketed by the system are emitting VOCs, with the exception of emergency or planned outages, repairs, or maintenance. All VOC emissions processed by the blanketing system shall be incinerated by combustion in the facility's coke batteries or boilers or by downstream consumers. U. S. Steel's Clairton Works facility shall retain all records required by both section 2105.06 of Article XXI and this order for at least two years and they shall be made available to the PADEP upon request. Such records shall provide sufficient data and calculations to clearly demonstrate that all requirements of the above references are being met.

F. USX Corporation-U.S .Steel-Edgar Thomson Works

USX Corporation's Edgar Thomson Works is a steel production facility located in Braddock, Pennsylvania. USX Corporation's Edgar Thomson Works is a major NO_X and VOC emitting facility. In this instance, RACT has been established and imposed by the ACHD in CO 235. The PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. The ACHD issued CO 235 to impose RACT on subject equipment at the facility. Under this CO, USX Corporation's Edgar Thomson facility is required to maintain and operate the following units in accordance with good engineering and air pollution control practices at all times:

(1) Boilers 1 through 3
(2) Blast Furnace Stoves and casthouses #1 and #3
(3) Dual Strand Continuous Caster
(4) Basic Oxygen Furnace vessels #1 and #2
(5) Blast Furnace Gas Flare
(6) Hot Metal Transfer and Desulfurization unit
(7) Blast Furnace Ramming mix operations

The following units at this source are limited to NO_X emissions as follows: Boilers No. 1, 2, and 3 are limited to 0.55lbs/MMBtu, and 800 tpy of NO_X. The facility shall not exceed an annual natural gas capacity factor of 78.4 percent at each of these boilers. These boilers must also have properly maintained and operated CEM, meeting all requirements of section 2108.03 of Article XXI. The NO_X emission limits specified above shall be determined by a thirty day rolling average and by a twelve month rolling average of CEM data. USX Corporation's Edgar Thomson facility shall retain all records required by both section 2105.06 of Article XXI and this order for at least two years and they shall be made available to the PADEP upon request. Such records shall provide sufficient data and calculations to clearly demonstrate that all requirements of the above references are being met.

G. USX Corporation-U.S. Steel-Irvin Works

USX Corporation's Irvin Works is a steel processing facility located in West Mifflin, Pennsylvania. USX Corporation's Irvin Works facility is a major NO_X and VOC emitting facility. In this instance, RACT has been established and imposed by the ACHD in CO 258. The PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. The ACHD issued CO 258 to impose RACT on subject equipment at the facility. Under this CO, U.S. Steel's Irvin Works facility is required to maintain and operate the following units in accordance with good combustion and air pollution control practices at all times, with the exception of emergency or planned outages, repairs or maintenance:

(1) Boilers No. 1, 2, 3, and 4
(2) 80″ Hot Strip Mill Reheat Furnaces 1 through 5
(3) No. 1 Galvanizing Line Furnace
(4) No. 1 Galvanneal Furnace 6
(5) No. 2 Galvalume Furnace
(6) Terne Line Pot Heater

(7) Open Coil Annealing Furnace
(8) No. 2 Continuous Annealing Furnace
(9) HPH Box Annealing Furnace
(10) 80″ Hot Strip Mill Rolling Stands
(11) Five Stand Cold Rolling Mill

USX Corporation's Irvin Works facility is required to conduct an annual adjustment at the Irvin Works on the combustion processes of the following equipment: 80″ Hot Strip Mill Reheat Furnaces 1 through 5; Boilers No. 1, 2, 3, and 4; and No. 2 Continuous Annealing Furnace.

Such annual adjustment shall include: (1) Inspection, adjustment, cleaning, or necessary replacement of fuel-burning equipment, including the burners and moving parts necessary for proper operation as specified by the manufacturer; (2) Inspection of the flame pattern or characteristics and adjustments necessary to minimize total emissions of NO_X; and (3) Inspection of the air-to-fuel ratio control system and adjustments necessary to ensure proper calibration and operation as specified by the manufacturer. USX Corporation's Irvin Works facility shall maintain the following records for the subject equipment: (1) The date of the annual tune-up; (2) The name of the service company and/or individuals performing the annual tune-up; (3) The operating rate or load after the annual tune-up; (4) The NO_X emission rate after the annual tune-up. USX Corporation's Irvin Works facility shall operate the No. 3 Five Stand Cold Rolling Mill and the 80″ Hot Strip Mill Rolling Stand with lubricating oil, which is an oil-water emulsion and does not exceed a maximum VOC content by weight, of 2 percent and 4 percent, respectively. USX Corporation's Irvin Works facility shall retain all records required by both section 2105.06 of Article XXI and this order for at least two years and they shall be made available to the ACHD upon request. Such records shall provide sufficient data and calculations to clearly demonstrate that all requirements of the above references are being met.

H. Washington Steel Corporation

Washington Steel Corporation is a facility located in Washington City, Pennsylvania. Washington Steel Corporation's Washington plant is a major NO_X emitting facility. The PADEP issued OP 63–000–023 to impose RACT for the four preheat and four equalizing furnaces in accordance with the manufacturer's specifications, in accordance with 25 PA Code section 129.93. Further, all sources and air cleaning devices at the facility shall be operated and maintained in accordance with good air pollution control practices. Washington Steel is precluded from exceeding 217 tpy of NO_X at this facility. Emission reductions of the targeted contaminants below the levels specified in the source's permit, which were achieved by optimizing the effectiveness of equipment are not surplus reductions and shall not be used to generate emission reduction credits. In order for the emission reductions to be credible, the emission reductions must satisfy the requirements of 25 PA Code section 127, Subchapter E.

I. Wheeling-Pittsburgh Steel Corporation

Wheeling-Pittsburgh Steel Corporation is a facility located in Allenport Borough, Pennsylvania. Wheeling-Pittsburgh Steel Corporation's Allenport plant is a major NO_X emitting facility. The PADEP issued OP 63–000–066 to impose RACT on the operation of two combination natural gas/oil fired boilers rated at 60.5 MMBtu/hr (retrofitted with low-NO_X Burners/Flue Gas Recirculating) and the application of presumptive RACT for the 104 ancillary sources at this plant. Wheeling-Pittsburgh Steel Corporation's Allenport plant is required to maintain records in accordance with the requirements of 25 PA Code section 129.95. At a minimum, the following records shall be kept at the facility: monthly diesel consumption, monthly natural gas consumption, and material throughput. These records shall be maintained on file for not less than two years, and shall be made available to PADEP upon request. Wheeling-Pittsburgh Steel Corporation shall limit NO_X emissions from each boiler at its Allenport plant to 2.0 lbs/hr, and 8.7 tpy when natural gas is used as the fuel. The NO_X limit from each boiler shall be limited to 6.7 lbs/hr, and 29.4 tpy when diesel is used as the fuel. For one of the two boilers, if operated over 750 hours annually (combined), a minimum of one stack test in accordance with 25 PA Chapter 139 and the PADEP Source Testing Manual shall be performed at a maximum normal operating condition, to verify the emission rate for NO_X. One of the two boilers, if operated over 750 hours annually (combined) shall also be stack tested annually at the normal operating condition and at the fuel condition used for the majority of the time during the past twelve months (either natural gas or diesel fuel) to verify the emission rate for NO_X, either through and EPA method stack test, or through the use of portable monitors. Because the two boilers are identical, testing requirements for the stand-by boiler (at the time of testing) shall be waived. For those tests utilizing portable analyzers, the source shall submit a complete operating procedure, including calibration, QA/QC, and emission calculation methods to the PADEP. The accuracy of the portable analyzer shall be verified by operation and recording of readings during an EPA method stack test. This information shall be retained by the source at the test location and provided annually with the emission statement and at other times as requested by the PADEP. Wheeling-Pittsburgh Steel Corporation's Allenport plant is required to submit pretest protocols 60 days prior to testing, to notify the PADEP at least two weeks prior to stack testing (so that an observer may be present), and to submit a stack test report to PADEP within 60 days of testing.

J. Koppers

Koppers is a coke plant facility located in Monessen, Pennsylvania. Koppers is a major NO_X and VOC emitting facility. The PADEP issued OP 65–000–853 to impose RACT on the sources at Koppers' Monessen Coke Works. Koppers' Monessen plant is required to operate and maintain all sources and air cleaning devices in accordance with good air pollution control practices, in accordance with 25 PA Code section 127.441. In addition, all sources and air cleaning devices must be operated and maintained in accordance with the manufacturer's specifications, guidelines and procedures, pursuant to 25 PA Code 127.441. In addition, NO_X limits are imposed at the sources at Koppers' Monessen Coke Works as follows with annual limits set based upon any consecutive twelve month period:

(1) Battery 1B of the Coke Battery Underfire unit is limited to 60.7 lbs/hr, and 286 tpy
(2) Battery 2 of the Coke Battery Underfire unit is limited to 55.4 lbs/hr, and 246 tpy
(3) The Flare unit is limited to 31.7 tpy
(4) The Coke Pushing unit is limited to 7.8 lbs/hr, and 4.8 tpy
(5) The Coke Quenching unit is limited to 0.0 tpy
(6) The Coal Charging unit is limited to 0.7 tpy
(7) The Boilers are limited to 112.1 tpy

VOC limits are imposed at the sources at Koppers' Monessen Coke Works as follows with annual limits set based upon any consecutive twelve month period:

(1) Battery 1B of the Coke Battery Underfire unit is limited to 0.3 lbs/hr, and 1.0 tpy
(2) Battery 2 of the Coke Battery Underfire unit is limited to 0.5 lbs/hr, and 1.9 tpy

(3) The Flare unit is limited to 27.6 tpy
(4) The Coke Pushing unit is limited to 1.1 lbs/hr, and 0.6 tpy
(5) The Coke Quenching unit is limited to 5.4 tpy
(6) The Coal Charging unit is limited to 36.2 tpy
(7) The Boilers are limited to 2.7 tpy
(8) Miscellaneous Sources are limited to 0.5 tpy
(9) Fugitives are limited to 8.14 typ
(10) Coke By-Products Plant is limited to 35.2 tpy

Koppers' Monessen Coke plant is required to verify compliance with the above limits for the coke battery underfire and coke pushing emissions through annual stack testing. Pursuant to 25 PA Code 139.2, all stack testing shall be performed in accordance with 25 PA Code Chapter 139 regulations, and the PADEP Source Testing Manual. Koppers' Monessen Coke plant is required to submit a pre-test protocol to PADEP at least 60 days in advance of testing, to notify PADEP at least two weeks prior to the date of the testing (so that an observer may be present), and to submit two copies of the stack test results to PADEP within 60 days of the testing. Emission reductions of the targeted contaminants below the levels specified in the source's permit, which were achieved by optimizing the effectiveness of equipment, are not surplus reductions and shall not be used to generate emission reduction credits. In order for the emission reductions to be credible, the emission reductions must satisfy the requirements of 25 PA Code Section 127, Subchapter E. Koppers' Monessen Coke plant is required to keep records to demonstrate compliance with the limits specified above, in accordance with 25 PA Code section 129.95. The records shall provide sufficient data and calculations to clearly demonstrate compliance with the requirements specified above. Data and information required to determine compliance shall be recorded and maintained in a time frame consistent with averaging periods to verify compliance. These records shall be retained for at least two years, and made available to PADEP upon request.

K. Shenango, Inc.

Shenango Inc., is a coke production facility located in Neville Township, Pennsylvania. Shenango, Inc., is a major NO_X and VOC emitting facility. In this instance, RACT has been established and imposed by the ACHD in CO 233. The PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. The ACHD issued CO 233 to impose RACT on subject units at the Neville Township facility. Shenango is required to operate and maintain the following units in accordance with good engineering and air pollution control practices:

(1) Boilers No. 7, 8, 9, and 10
(2) Coke Battery S–1, PEC Baghouse and Quench Tower
(3) Tar Truck Loading and Light Oil Truck Loading
(4) Wash and Spent Oil Storage Tanks
(5) Heavy Oil Separator
(6) Light Oil Process and Coke Oven Gas Piping Systems
(7) Nitrogen Gas Blanketing System on the By-Product Plant.

Shenango's Neville Township facility is required to properly operate and maintain the existing nitrogen gas blanketing system treating emissions from the following equipment, while the subject equipment is emitting VOC's: (1) Tar Decanter Tanks A & B; (2) Tar Dewatering Tanks A & B; (3) Tar Storage Tanks A & B; (4) Flushing Liquor Recirculating Tanks A & B; (5) Flushing Liquor Overflow Tanks A & B; (6) Wash Oil Recirculating Hot Decanter, Cold Oil Decanter, Purifier and the Hot and Cold Muck Tanks; and (7) Light Oil Process Separator, Light Oil Process Interceptor Sump and Light Oil Process Tanks A & B. The NO_X emissions from Boilers No. 7, 8, 9, and 10 shall be limited as follows: Boilers No. 7 and 8 have NO_X emission limits of 0.18 lbs/MMBtu, and 92 tpy. Boilers No. 9 and 10 have NO_X emission limits of 0.18 lbs/MMBtu, and 281 tpy and 373 tpy, respectively. Shenango shall test for compliance with the above limits every two years, using EPA approved test methods and section 2108.2 of Article XXI. The natural gas capacity factor for Boilers No. 7 and 8 is 52 percent. The natural gas capacity factor for Boiler No. 9 is 44.5 percent. The natural gas capacity factor for Boiler No. 10 is 17.9 percent. Shenango's Neville Township facility shall not exceed a 30 percent annual capacity factor, based on annual heat input for a calendar year, for Boilers No. 9 and 10. Shenango, Inc. shall maintain all appropriate records to demonstrate compliance with the requirements of 2105.06 of Article XXI and the CO, for at least two years, and they shall be made available to PADEP upon request. Such records shall provide sufficient data to clearly demonstrate that all such requirements are met, as described above. Shenango's Neville Township facility is also subject to additional post-RACT requirements to reduce NO_X.

III. EPA's Evaluation

EPA is approving these RACT SIP submittals because the ACHD and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The ACHD and PADEP have also imposed record-keeping, monitoring, and testing requirements on these sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_X RACT for eleven major sources located in the Pittsburgh area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 5, 2001 without further notice unless EPA receives adverse comment by September 20, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn. If that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' See 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 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for eleven named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 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 approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from eleven individual steel/coke manufacturing sources in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen Oxides, Ozone, Reporting and record keeping requirements.

Dated: August 10, 2001.

Judith Katz,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(172) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(172) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO_X RACT for 11 iron and steel sources located in the Pittsburgh-Beaver Valley area , submitted by the Pennsylvania Department of Environmental Protection on January 21, 1997, July 1, 1997, March 3, 1999, April 9, 1999, and July 5, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, on the following dates: January 21, 1997, July 1, 1997, March 3, 1999, April 9, 1999, and July 5, 2001.

(B) The following companies' Operating Permits (OP) or Consent Orders (CO):

(*1*) J & L Structural, Inc.–Aliquippa, OP 04–000–467, effective June 23, 1995, except for the Permit Term.

(*2*) Universal Stainless & Alloy Products, Inc., CO 241, effective December 19, 1996, except for condition 2.5.

(*3*) Shenango, Inc., CO 233, effective December 30, 1996, except for conditions 1.7, 2.6, and 2.7.

(*4*) LTV Steel Company, Inc., CO 259, effective December 30, 1996, except for condition 2.5.

(*5*) U.S. Steel Clairton Works, CO 234, effective December 30, 1996, except for condition 2.5.

(*6*) USX Corporation, Edgar Thomson Works, CO 235, effective December 30, 1996, except for condition 2.5.

(*7*) USX Corporation, Irvin Works, CO 258, effective December 30, 1996, except for condition 2.5.

(*8*) Wheeling-Pittsburgh Steel Corporation, OP 63–000–066, effective February 8, 1999, except for the Permit Term.

(*9*) Koppers, OP 65–000–853, effective March 20, 1998, except for the Permit Term.

(*10*) J & L Specialty Steel, Inc., Midland Facility, OP 04–000–013, effective March 23, 2001, except for the Permit Term.

(*11*) Washington Steel Corporation, OP 63–000–023, effective September 12, 1996, except for the Permit Term.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(172)(i)(B), of this section.

[FR Doc. 01–21026 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 169–4134; FRL–7038–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Nitrogen Oxides Budget Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania on October 30, 2000 and April 4, 2001. This revision establishes and requires a nitrogen oxides (NO_X) allowance trading program for large electric generating and industrial units beginning in 2003. The intended effect of this action is to approve the Pennsylvania NO_X Budget Trading Program because it addresses the requirements of the NO_X SIP Call Phase I that will significantly reduce ozone transport in the eastern United States.

EFFECTIVE DATE: This final rule is effective on September 20, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178, or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 29, 2001 (66 FR 29064), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of the Pennsylvania NO_X Budget Trading Program. The formal SIP revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) on October 30, 2000 and April 4, 2001. The Commonwealth of Pennsylvania submitted a revision to its SIP to address the requirements of the NO_X SIP Call Phase I. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the addition of Chapter 145—Interstate Pollution Transport Reduction (sections 145.1 through 145.90, inclusive) as well as amendments and additions to Chapter 123—Standards for Contaminants. A detailed description of this SIP revision and EPA's rationale for approving it was provided in the May 29, 2001 NPR and will not be restated here. Two letters of comment were submitted on EPA's proposal. The comments do not oppose EPA's proposed action to approve Pennsylvania's regulations, but rather asked that EPA clarify whether or not section 145.100 of 25 PA Code Chapter 145—Interstate Pollution Transport Reduction was being made part of the SIP. A summary of the comments and EPA's response is provided in Section II, below.

II. Public Comments and EPA Response

Comment: Two letters of comment were submitted requesting that EPA clarify that its approval of 25 PA Code Chapter 145—Interstate Pollution Transport Reduction does not include section 145.100 of that regulation. The commenters stated that while they could infer from reading the May 29, 2001 NPR that Section 145.100 was not included in the SIP revision, they urged EPA to state explicitly in its final rulemaking that Section 145.100 was not being approved as a revision to the Pennsylvania SIP.

Response: Pennsylvania's submittal to EPA requesting that its NO_X Budget Trading Program be approved as a SIP revision did not include Section 145.100 of 25 PA Code Chapter 145—Interstate Pollution Transport Reduction. Therefore, EPA is neither approving section 145.100 nor incorporating it into the Pennsylvania SIP.

III. Final Action

EPA is approving SIP revisions as submitted by the Commonwealth of Pennsylvania on October 30, 2000 and April 4, 2001. These SIP revisions consist of the Commonwealth's NO_X Budget Trading Program to satisfy the requirements of the NO_X SIP Call Phase I. Pennsylvania's SIP revisions to address the requirements of the NO_X SIP Call Phase I consist of the addition of Chapter 145—Interstate Pollution Transport Reduction (sections 145.1 through 145.90, inclusive) as well as amendments and additions to Chapter 123—Standards for Contaminants. The Commonwealth's SIP revision request does not include section 145.100 of 25 PA Code Chapter 145—Interstate Pollution Transport Reduction.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''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 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR

19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 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 approving the Pennsylvania NO_X Budget Trading Program 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 10, 2001.

Judith M. Katz,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(168) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(168) Revisions submitted on October 30, 2000 and March 28, 2001 by the Secretary of the Pennsylvania Department of Environmental Protection requesting approval of Pennsylvania's Nitrogen Oxides Budget Trading Program :

(i) Incorporation by reference.

(A) Letters of October 30, 2000 and March 28, 2001 from the Secretary of the Pennsylvania Department of Environmental Protection transmitting regulatory amendments to 25 PA Code to implement the Nitrogen Oxides Budget Trading Program .

(B) Revisions to 25 PA Code, amending Chapter 123 and adding Chapter 145 pertaining to the Nitrogen Oxides Budget Trading Program, effective on September 23, 2000.

(*1*) Revisions to section 123.115.

(*2*) Addition of section 123.121.

(*3*) Addition of sections 145.1 through 145.7, 145.10 through 145.14, 145.30, 145.31, 145.40 through 145.43, 145.50 through 145.57, 145.60 through 145.62, 145.70 through 145.76, 145.80 through 145.88, and 145.90.

[FR Doc. 01–21032 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4127a; FRL–7040–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eight Individual Sources in the Pittsburgh-Beaver Valley Area; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: This document corrects an error in the preamble language of the final rule pertaining to EPA's approval of the VOC and NO_X RACT determinations for eight individual sources in the Pittsburgh-Beaver Valley Area, submitted by the Commonwealth of Pennsylvania.

EFFECTIVE DATE: September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 13, 2001 (66 FR 42418), EPA published a direct final rulemaking action announcing EPA's approval of VOC and NO_X RACT determinations for eight individual sources in the Pittsburgh-Beaver Valley Area. In the preamble of this document, EPA inadvertently stated that these eight sources (Consolidated Natural Gas Transmission Corporation-South Oakford Station, Consolidated Natural Gas Transmission Corporation-Tonkin Station, Carnegie Natural Gas Company-Creighton Station, Consolidated Natural Gas Transmission Corporation-Beaver Station, Consolidated Natural Gas Transmission Corporation-Jeannette Station, Consolidated Natural Gas Transmission Corporation-South Bend Station, Consolidated Natural Gas Transmission Corporation-Oakford Station, and Texas Eastern Transmission Corporation-Uniontown Station) were subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code Chapters 121, 123 and 145. This action removes the erroneous language from the preamble.

Corrections

In rule document 01–20378, beginning on page 42418 in the issue of Monday, August 13, 2001, make the following corrections:

1. On page 42420, third column, remove the last sentence of the second paragraph.

2. On page 42421, first column, remove the last sentence of the fourth paragraph.

3. On page 42421, second column, remove the last sentence of the third paragraph.

4. On page 42422, first column, remove the last sentence of the second paragraph.

5. On page 42422, second column, remove the last sentence of the second paragraph.

6. On page 42423, first column, remove the last sentence of the second paragraph.

7. On page 42423, third column, remove the last sentence of the second paragraph.

8. On page 42424, second column, remove the last sentence of the first paragraph.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore 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, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This technical correction action does not involve technical standards; 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 rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) 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 Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of September 27, 2001. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to rule document 01–20378 for Pennsylvania is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: August 14, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–21034 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4130a; FRL–7039–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Four Individual Sources in the Pittsburgh-Beaver Valley Area; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: This document corrects an error in the preamble language of the final rule pertaining to EPA's approval of VOC and NO_X RACT determinations for four individual sources in the Pittsburgh-Beaver Valley Area submitted by the Commonwealth of Pennsylvania.

EFFECTIVE DATE: September 24, 2001.

FOR FURTHER INFORMATION CONTACT: Rose Quinto (215) 814–2182, or by e-mail at *quinto.rose@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION: On August 10, 2001 (66 FR 42136), EPA published a direct final rulemaking action announcing EPA's approval of VOC and NO_X RACT determinations for four individual sources in the Pittsburgh-Beaver Valley Area. In the preamble of this document, EPA inadvertently stated that three sources (Ashland Chemical Corporation, Hercules Incorporated, and Neville Chemical Company) were subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code Chapters 121, 123 and 145. This action removes the erroneous language from the preamble.

Corrections

In rule document 01–20241 beginning on page 42136 in the issue of Friday,

August 10, 2001, make the following corrections:

1. On page 42138, first column, remove the last sentence of the first paragraph.

2. On page 42138, second column, remove the last sentence of the first paragraph.

3. On page 42139, second column, remove the last sentence of the first paragraph.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore 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, Distribution, or Use'' (66 FR 28355, May 22, 2001). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This technical correction action does not involve technical standards; 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 rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) 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 Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of September 24, 2001. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to rule document 01–20241 for Pennsylvania is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: August 14, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–21033 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7036–9]

South Carolina: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: South Carolina has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize South Carolina's changes to their hazardous waste program will take effect as provided below. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on October 22, 2001 unless EPA receives adverse written comment by September 20, 2001. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440. You can view and copy South Carolina's applications from 9:00 a.m. to 4:00 p.m. at the following

addresses: South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, (803) 896–4174; and EPA Region 4, Atlanta Federal Center, Library, 61 Forsyth Street, SW., Atlanta, Georgia 30303; (404) 347–4216.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that South Carolina's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA. Therefore, we grant South Carolina Final authorization to operate its hazardous waste program with the changes described in the authorization applications. South Carolina has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program applications, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in South Carolina, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in South Carolina subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. South Carolina has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits;
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which South Carolina is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the state program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has South Carolina Previously Been Authorized for?

South Carolina initially received Final authorization on November 8, 1985, effective November 22, 1985 (50 FR 46437) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on September 8, 1988, effective November 7, 1988 (53 FR 34758), February 10, 1993, effective April 12, 1993 (58 FR 7865), November 29, 1994, effective January 30, 1995, April 26, 1996, effective June 25, 1996 (61 FR 18502), and October 4, 2000, effective December 4, 2000 (65 FR 59135).

G. What Changes Are We Authorizing With Today's Action?

On July 15, 1999, South Carolina submitted final complete program revision applications, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that South Carolina's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant South Carolina Final authorization for the following program changes:

Federal requirement	Federal Register	Analogous State authority [1]
Recovered Oil Exclusion. Checklist 135.	59 *FR* 38536, 07/28/94	SCHWMA § 44–56–40. SCHWM R.61–79.261.3(c)(2)(ii)(B). SCHWM R.61–79.261.4(a)(12). SCHWM R.61–79.261.6(a)(3)(iv); R.61–79.261.6(a)(3)(v); R.61–79.261.6; R.61–79.266.100(b)(3).

Federal requirement	Federal Register	Analogous State authority [1]
Removal of the Conditional Exemption for Certain Slag Residues. Checklist 136.	59 *FR* 43496, 08/24/94	SCHWMA § 44–56–30. SCHWMA R.61–79.266.20(c); R.61–79.268.41.
Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes. Checklist 137.	59 *FR* 47982, 09/19/94; 60 *FR* 242–302, 01/03/95.	SCHWMA § 44–56–30. SCHWMA § 44–56–40. SCHWM R.61–79.260.30. SCHWM R.61–79.260.30(b); R.61–79.260.31(a); R.61–79.260.31(b); R.61–79.260.32 intro; R.61–79.260.33 intro; R.61–79.260.33(a), (b); R.61–79.261.2(e)(1)(iii); R.61–79.264.1(g)(6); R.61–79.265.1(c)(10); R.61–79.266.23(a); R.61–79.266.100(c)(1); R.61–79.266.100(c)(3); R.61–79.266.100(c)(3)(i); R.61–79.266.100(c)(3)(i)(A); R.61–79.266.100(c)(3)(ii); R.61–79.268/Appendix XIII; R.61–79.268.1(c)(3); R.61–79.268.1(e)(4)–(e)(5); R.61–79.268.2(g); R.61–79.268.2(i); R.61–79.268.7(a)–(a)(1)(vi); R.61–79.268.7(a)(2)–(a)(2)(ii); R.61–79.268.7(a)(3)–(a)(3)(vii); R.61–79.688.7(a)(4)–(a)(10); R.61–79.268.7(b); R.61–79.268.7(b)(4)(ii); R.61–79.268.7(b)(5)(iv); R.61–79.268.7(d)–(d)(1); R.61–79.268.9(a); R.61–79.268.9(d)(1)(i)–(d)(2)(ii); R.61–79.268.38(a)–(e); R.61–79.268.40(a)–(f); R.61–79.268.40/Table; R.61–79.268.41 and Table CCWE; R.61–79.268.42 note; R.61–79.268.42(a); R.61–79.268.42(a)/Table 1; R.61–79.268.42(a)/Table 2; R.61–79.268.42(a)/Table 3; R.61–79.268.42(c)(2); R.61–79.268.42(d); R.61–79.268.43; R.61–79.268.43/Table CCW; R.61–79.268.45(b)(2); R.61–79.268.46; R.61–79.268.48(a); R.61–79.268.48/Table UTS; R.61–79.268/Appendix IV; R.61–79.268/Appendix X.
Testing and Monitoring Activities, Amendment I. Checklist 139.	60 *FR* 3089, 1/13/95	SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWMA 44–56–50. SCHWM R.61–79.260.11(a).
Carbamate Production Identification and Listing of Hazardous Waste. Checklist 140.	60 *FR* 7824, 02/09/95; 60 *FR* 19165, 04/17/95; 60 *FR* 25619, 06/12/95.	SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWM R.61–79.261.3(a)(2)(iv)(E); R.61–79.261.3(a)(2)(iv)(F); R.61–79.261.3(a)(2)(iv)(G); R.61–79.261.3(c)(2)(ii)(D); R.61–79.261.32; R.61–79.261.33(e); R.61–79.261.33(f); R.61–79.261/Appendix VII; R.61–79.261/Appendix VIII.
Testing and Monitoring Activities, Amendment II. Checklist 141.	60 *FR* 17001, 04/04/95	SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWMA 44–56–50. SCHWM R.61–79.260.11(a).
Universal Waste: General Provisions. Checklist 142A.	60 *FR* 25492, 05/11/95	SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWMA 44–56–50. SCHWMA 44–56–60. SCHWMA 44–56–70. SCHWMA 44–56–80. SCHWMA 44–56–90. SCHWMA 44–56–120. SCHWMA 44–56–140. SCHWMA 44–56–170. SCHWM R.61–79.260.10; R.61–79.261.5(c)(2)–(c)(6); R.61–79.261.5(f)(3) intro–(f)(3)(vi); R.61–79.261.5(g)(3) intro–(g)(3)(vi); R.61–79.261.9 intro; R.61–79.262.10(b)–(g); R.61–79.262.11(d); R.61–79.264.1(g)(11) intro; R.61–79.265.1(c)(14) intro; R.61–79.268.1(f) intro; R.61–79.270.1(c)(2)(viii) intro; R.61–79.273.1(a) intro; R.61–79.273.1(b); R.61–79.273.5(a); R.61–79.273.5(a)(1)–(a)(2); R.61–79.273.5(b); R.61–79.273.6; R.61–79.273.10; R.61–79.273.11 intro; R.61–79.273.11(a)–(b); R.61–79.273.12; R.61–79.273.14 intro; R.61–79.273.15; R.61–79.273.15(a)–(b); R.61–79.273.15(c)–(c)(6); R.61–79.273.16; R.61–79.273.17(a)–(b); R.61–79.273.18(a)–(h); R.61–79.273.19; R.61–79.273.20 intro; R.61–79.273.20(a)–(c); R.61–79.273.30; R.61–79.273.31 intro; R.61–79.273.31(a)–(b); R.61–79.273.32(a)(1)–(a)(2); R.61–79.273.32(b)–(b)(5); R.61–79.273.34 intro; R.61–79.273.35(a)–(b); R.61–79.273.35(c)–(c)(6); R.61–79.273.36; R.61–79.273.37(a)–(b); R.61–79.273.38(a)–(h); R.61–79.273.39(a); R.61–79.273.39(a)(1)–(a)(3); R.61–79.273.39(b); R.61–79.273.39(b)(1)–(b)(3); R.61–79.273.39(c)(1)–(c)(2); R.61–79.273.40 intro; R.61–79.273.40(a)–(c); R.61–79.273.50; R.61–79.273.51 intro; R.61–79.273.51(a)–(b); R.61–79.273.52(a)–(b); R.61–79.273.53(a)–(b); R.61–79.273.54(a)–(b); R.61–79.273.55(a)–(b); R.61–79.273.56 intro; R.61–79.273.56(a)–(b); R.61–79.273.60(a)–(b); R.61–79.273.61(a)–(d); R.61–79.273.62(a)–(b); R.61–79.273.70 intro; R.61–79.273.70(a)–(c).
Universal Waste Rule: Specific Provisions for Batteries. Checklist 142B.	60 *FR* 25492, 5/11/95	SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWMA 44–56–50. SCHWMA 44–56–60.

Federal requirement	Federal Register	Analogous State authority [1]
		SCHWMA 44–56–70. SCHWMA 44–56–80. SCHWMA 44–56–90. SCHWMA 44–56–120. SCHWMA 44–56–140. SCHWMA 44–56–170. SCHWMA R.61–79.260.10; R.61–79.261.6(a)(3)(ii); R.61–79.261.(6(a)(3)(iv)–(vi); R.61–79.261.9(a); R.61–79.264.1(g)(11)(i); R.61–79.265.1(c)(14)(i); R.61–79.266.80(a); R.61–79.266.80(b)intro; R.61–79.268.1(f)(1); R.61–79.270.1(c)(2)(viii)(A); R.61–79.273.1(a)(1); R.61–79.273.2(a)(1)–(a)(2); R.61–79.273.2(b)–(b)(3); R.61–79.273.2(c)(1)–(c)(2); R.61–79.273.6; R.61–79.273.13(a); R.61–79.273.13(a)(1)–(a)(3)(ii); R.61–79.273.14(a); R.61–79.273.33(a); R.61–79.273.33(a)(1)–(a)(3)(ii); R.61–79.273.34(a).
Universal Waste Rule: Specific Provisions for Pesticides. Checklist 142C.	60 *FR* 25492, 5/11/95	SCHWMA 44–56–30. SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWMA 44–56–50. SCHWMA 44–56–60. SCHWMA 44–56–70. SCHWMA 44–56–80. SCHWMA 44–56–90. SCHWMA 44–56–120. SCHWMA 44–56–140. SCHWMA 44–56–170. SCHWMA R.61–79.79.260.10; R.61–79.261.9(b); R.61–79.261.1(g)(11)(ii); R.61–79.265.1(c)(14)(ii); R.61–79.268.1(f)(2); R.61–79.270.1(c)(2)(viii)(B); R.61–79.273.1(a)(2); R.61–79.273.3(a); R.61–79.273.3(a)(1)–(a)(2); R.61–79.273.3(b); R.61–79.273.3(b)(1)–(b)(4); R.61–79.273.3(c)(1)–(c)(2); R.61–79.273.3(d); R.61–79.273.3(d)(1)–(d)(2); R.61–79.273.6; R.61–79.273.13(b); R.61–79.273.13(b)–(b)(4); R.61–79.273.14(b); R.61–79.273.13(b)(1)–(c)(2); R.61–79.273.32(a)(1)–(a)(3); R.61–79.273.33(b)–(b)(4); R.61–79.273.34(b)–(b)2); R.61–79.273.34(c)–(c)(2).
Universal Waste Rule: Specific Provisions for Thermostats. Checklist 142D.	60 *FR* 25492, 5/11/95	SCHWMA 44–56–30. SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWMA 44–56–50. SCHWMA 44–56–60. SCHWMA 44–56–70. SCHWMA 44–56–80. SCHWMA 44–56–90. SCHWMA 44–56–120. SCHWMA 44–56–140. SCHWMA 44–56–170. SCHWMA R.61–79.260.10; R.61–79.261.9(c); R.61–79.264.1(g)(11)(iii); R.61–79.265.1(c)(14)(iii); R.61–79.268.1(f)(3); R.61–79.270.1(c)(2)(viii)(C); R.61–79.273.4(a); R.61–79.273.4(b); R.61–79.273.4(b)(1)(–(b)(2); R.61–79.273.4(c)(1)–(c)(2); R.61–79.273.6; R.61–79.273.13(c); R.61–79.273.13(c)(1); R.61–79.273.13(c)(2)–(c)(2)(viii); R.61–79.13(c)(3)(i)–(c)(3)(iii); R.61–79.273.14(d); R.61–79.273.33(c); R.61–79.273.33(c)(1); R.61–79.273.33(c)(2)–(c)(2)(viii); R.61–79.273.33(c)(3)(i); R.61–79.273.33(c)(3)(i)(A); R.61–79.273.33(c)(3)(i)(B); R.61–79.273.33(c)(3)(ii); R.61–79.273.33(c)(3)(iii); R.61–79.273.34(d).
Permit Modification. Checklist 44D.	52 *FR* 54788, 12/01/87	SCHWMA 44–56–20. SCHWMA 44–56–30. SCHWMA 44–56–31. SCHWMA 44–56–35. SCHWMA 44–56–60. SCHWMA R.61–79.270.41(a)(3); R.61–79.270.41(a)(3)(i)–(iii).

Federal requirement	Federal Register	Analogous State authority [1]
Land Disposal Restrictions for Third Scheduled Wastes. Checklist 78.	52 *FR* 22520, 06/01/90	SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWM R.61–79.261.20(b); R.61–79.261.21(b); R.61–79.261.22(b); R.61–79.261.23(b); R.61–79.261.24(b); R.61–79.261.31; R.61–79.261.33(c); Appendix VII; R.61–79.262.11(c); R.61–79.262.34(a)(4); R.61–79.264.13(a)(2); R.61–79.264.229; R.61–79.264.256; R.61–79.264.281; R.61–79.264.312; R.61–79.264.316(f); R.61–79.265.1(e); R.61–79.265.13(a)(2); R.61–79.265.229; R.61–79.265.256; R.61–79.265.281; R.61–79.265.312(a); R.61–79.265.312(b); R.61–79.265.316(f); R.61–79.268.1(c); R.61–79.268.2; R.61–79.268.2(a)–(f); R.61–79.268.2(f)(1)–(f)(3); R.61–79.268.2(g)–(g)(8); R.61–79.268.3(a); R.61–79.268.3(b); R.61–79.268.7(a)(1)(ii); R.61–79.268.7(a)(2)(i)(B); R.61–79.268.7(a)(3)(ii); R.61–79.268.7(a)(4); R.61–79.268.7(a)(4)(i)–(iv); R.61–79.268.7(a)(7); R.61–79.268.7(a)(8); R.61–79.268.7(a)(9); R.61–79.268.7(a)(7)(a)(9); R.61–79.268.7(b)(4)(ii); R.61–79.268.7(b)(5)(i); R.61–79.268.7(b)(5)(iii); R.61–79.268.7(b)(7); R.61–79.268.7(b)(7)(c); R.61–79.268.7(b)(7)(c)(3); R.61–79.268.7(b)(7)(c)(4); R.61–79.268.8(a); R.61–79.268.9(a); R.61–79.268.9(b); R.61–79.268.9(c); R.61–79.268.9(d); R.61–79.268.9(d)(1)–(d)(1)(iii); R.61–79.268.9(d)(2); R.61–79.268.35(a)–(i); R.61–79.268.35(i)(1)–(i)(4); R.61–79.268.35(j); R.61–79.268.40(a); R.61–79.268.40(c); R.61–79.268.41(a); R.61–79.268.41(a)/Table CCWE; R.61–79.268.42(a); R.61–79.268.42(c); R.61–79.268.42(c)(1)–(c)(4); R.61–79.268.42(d); R.61–79.268.43(a); R.61–79.268.43(a)/Table CCW; R.61–79.268.43(c); R.61–79.268.43(c)(1)–(c)(3); Appendix IV; Appendix V; Appendix VI; Appendix VII; Appendix VIII; R.61–79.270.42, Appendix I.
Consolidated Liability Requirements. Checklist 113.	53 *FR* 33938, 09/01/1998; 56 FR 30200, 07/01/1991; 57 FR 42832, 09/16/1992.	SCHWMA 44–56–30. SCHWMA 44–56–60. SCHWM R.61–79.264.141(h); R.61–79.264.143(f)(10)–(f)(11); R.61–79.264.147(a); R.61–79.264.147(a)(2)–(a)(7); R.61–79.264.147(a)(7)(i)–(iii); R.61–79.264.147(b); R.61–79.264.147(b)(2)–(b)(7); R.61–79.264.147(b)(7)(i)–(iii); R.61–79.264.147(f)(6); R.61–79.264.147(g); R.61–79.264.147(g)(1); R.61–79.264.147(g)(1)(ii); R.61–79.264.147(g)(2); R.61–79.264.147(g)(2)(ii); R.61–79.264.147(h); R.61–79.264.147(h)(1)–(h)(5); R.61–79.264.147(i); R.61–79.264.147(i)(1)–(i)(4)(ii); R.61–79.264.147(j); R.61–79.264.147(j)(1)–(j)(4); R.61–79.264.147(k); R.61–79.264.151(b); R.61–79.264.151(f); R.61–79.264.151(g); R.61–79.264.151(h)(1)–(h)(2); R.61–79.264.151(i)(2)(d); R.61–79.264.151(j)(2)(d); R.61–79.264.151(k); R.61–79.264.151(l); R.61–79.264.151(m)(l)–(m)(2); R.61–79.264.151(n)(1)–(n)(2); R.61–79.265.141(h); R.61–79.265.143(e)(10); R.61–79.265.145(e)(11); R.61–79.265.147(a); R.61–79.265.147(a)(2)–(a)(7); R.61–79.265.147(a)(7)(i)–(iii); R.61–79.265.147(b); R.61–79.265.147(b)(2)–(b)(7); R.61–79.265.147(b)(7)(i)–(iii); R.61–79.265.147(f)(6); R.61–79.265.147(g); R.61–79.265.147(g)(1); R.61–79.265.147(g)(1)(ii); R.61–79.265.147(g)(2); R.61–79.265.147(g)(2)(ii); R.61–79.265.147(h); R.61–79.265.147(h)(1)–(h)(5); R.61–79.265.147(i); R.61–79.265.147(i)(1)–(i)(4)(ii); R.61–79.265.147(j); R.61–79.265.147(j)(1)–(j)(4); R.61–79.265.147(k).
Exceptions to the burning and blending of hazardous waste.	HSWA 3004(q)(2)(A); HSWA 3004(r)(2)&(3).	SCHWMA 44–56–30. SCHWMA 44–56–50.
Surface impoundment requirements.	HSWA 3005(j)	SCHWMA 44–56–60. SCHWMA 48–1–10.
Liquid in Landfills III. Checklist 145.	60 *FR* 35703, 7/11/1995	SCHWMA 44–56–30. SCHWMA 48–1–10. SCHWM R.61–79.264.314(e)(2)(ii); R.61–79.264.314(e)(2)(iii); R.61–79.265.314(f)(2)(ii); R.61–79.265.314(f)(2)(iii).
RCRA Expanded Public Participation. Checklist 48.	60 FR 63417, 12/11/1995	SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWMA 44–56–60. SCHWM R.61–79.124.31; R.61–79.124.31(a)–(d); R.61–79.124.31(d)(1)–(d)(2)(v); R.61–79.124.32(a)–(c); R.61–79.124.33(a)–(f); R.61–79.270.2; R.61–79.270.14(b)(22); R.61–79.270.30; R.61–79.270.61(b)(5); R.61–79.270.62(b)(6); R.61–79.270.62(b)(6)(i)–(ii)(D); R.61–79.270.62(b)(7); R.61–79.270.62(b)(8)–(11); R.61–79.270.66(d)(3); R.61–79.270.66(d)(3)(ii); R.61–79.270.66(d)(3)(ii)(A)–(D); R.61–79.270.66(d)(4); R.61–79.270.66(d)(5)&(D)(6); R.61–79.270.66(g).
Amendments to the Definition of Solid Waste; Amendment II, Checklist 150.	61 *FR* 13103, 03/26/1996	SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWM R.61–79.261.4(a)(12).

Federal requirement	Federal Register	Analogous State authority [1]
Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Waste, and Spent Potliners. Checklist 151.	61 *FR* 15566, 04/08/1996; 61 *FR* 15560, 04/08/1996; 61 *FR* 19117, 04/30/1996; 61 *FR* 33680, 06/28/1996; 61 *FR* 36419, 07/10/1996; 61 *FR* 43924, 08/26/1996; 61 *FR* 7502, 02/19/1997.	SCHWMA 44–56–30. SCHWM R.61–79.268.1(c)(3); R.61–79.268.1(c)(3)(i)–(iii); R.61–79.268.1(c)(4) R.61–79.268.1(c)(4)(i)–(iv); R.61–79.268.1(e)(3); R.61–79.268.1(e)(4); R.61–79.268.1(e)(4)(i)–(ii) R.61–79.268.1(e)(5); R.61–79.268.2(f); R.61–79.268.2(f)(1)–(f)(3); R.61–79.268.2(i); R.61–79.268.2(j); R.61–79.268.2(k); R.61–79.268.3(a); R.61–79.268.3(b); R.61–79.268.3(c); R.61–79.268.3(c)(1)–(c)(6); R.61–79.268.7(a); R.61–79.268.7(a)(1)(iv); R.61–79.268.7(a)(1)(v); R.61–79.268.7(a)(1)(vi); R.61–79.268.7(a)(2)(i)(B); R.61–79.268.7(a)(3)(ii); R.61–79.268.7(b)(5)(iv); R.61–79.268.8; R.61–79.268.9(a); R.61–79.268.9(d); R.61–79.268.9(d)(1)(i)–(ii); R.61–79.268.9(d)(3); R.61–79.268.9(d)(3)(i)–(iv); R.61–79.268.9(e); R.61–79.268.39(a)–(g); R.61–79.268.40(a); R.61–79.268.40(e)–(e)(4); R.61–79.268.40(g); R.61–79.268.40/Table; R.61–79.268.42/Table 1; R.61–79.268.44(a); R.61–79.268.44(a)/Table UTS; Appendix XI.
Conditionally Exempt Small Quantity Generator Disposal Options Under Subtitle D. Checklist 153.	61 FR 34252, 07/01/1996	SCHWMA 44–56–30. SCHWM R.61–79.261.5(f)(3); R.61–79.261.5(f)(3)(i)–(iii); R.61–79.261.5(f)(3)(iv); R.61–79.261.5(f)(3)(v); R.61–79.261.5(f)(3)(vi); R.61–79.261.5(f)(3)(vii); R.61–79.261.5(g)(3); R.61–79.261.5(g)(3)(i)–(iii); R.61–79.261.5(g)(3)(iv); R.61–79.261.5(g)(3)(v); R.61–79.261.5(g)(3)(vi); R.61–79.261.5(g)(3)(vii).
Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers. Checklist 154.	59 FR 62896, 12/06/1994; 60 FR 26828, 05/19/1995; 60 FR 50426, 09/29/1995; 60 FR 56952, 11/13/1995; 61 FR 4903, 02/09/1996; 61 FR 28508, 06/05/1996; 61 FR 59932, 11/25/1996.	SCHWMA 44–56–30. SCHWMA 44–56–60. SCHWM R.61–79, Appendix A. SCHWM R.61–79.260.11(a); R.61–79.260.11(b); R.61–79.261.6(c)(1); R.61–79.262.34(a)(1)(i); R.61–79.262.34(a)(1)(ii); R.61–79.262.34(d)(2); R.61–79.264.13(b)(6); R.61–79.264.13(b)(8); R.61–79.264.13(b)(8)(i)–(ii); R.61–79.264.15(b)(4); R.61–79.264.73(b)(3); R.61–79.264.73(b)(6); R.61–79.264.77(c); R.61–79.264.179; R.61–79.264.200; R.61–79.264.232; R.61–79.264.601; R.61–79.264.1030(b); R.61–79.1030(b)(1)–(b)(3); R.61–79.264.1030/note at end.; R.61–79.264.1033(a)(2); R.61–79.264.1033(f)(2)(vi)(B); R.61–79.264.1033(k); R.61–79.264.1033(k)(1)–(2); R.61–79.264.1033(l); R.61–79.264.1033(l)(1)–(l)(1)(iv); R.61–79.264.1033(l)(2);R.61–79.264.1033(l)(2)(i)–(l)(2)(iv); R.61–79.264.1033(l)(3); R.61–79.264.1033(l)(3)(i)–(l)(3)(iv); R.61–79.264.1033(m); R.61–79.264.1033(n); R.61–79.264.1033(n)(1)–(n)(1)(iii); R.61–79.264.1033(n)(2); R.61–79.264.1033(n)(2)–(n)(2)(ii); R.61–79.264.1033(n)(3); R.61–79.264.1033(n)(3)–(n)(3)(ii); R.61–79.264.1033(o); R.61–79.264.1033(o)(1); R.61–79.264.1033(o)(2); R.61–79.264.1034(b); R.61–79.264.1035(c)(9); R.61–79.264.1035(c)(10); R.61–79.264.1035(c)(10)(i)–(c)(10)(v)(B); R.61–79.264.1035(d); R.61–79.264.1050(b); R.61–79.264.1050(b)(1)–(b)(3); R.61–79.264.1050(f); R.61–79.264.1050/note at end.; R.61–79.264.1055(a); R.61–79.264.1055(b)–(b)(3); R.61–79.264.1055(c); R.61–79.264.1058(e); R.61–79.264.1064(g)(6); R.61–79.264.1080(a); R.61–79.264.1080(b)–(b)(8); R.61–79.264.1080(c); R.61–79.264.1080(d)–(d)(3); R.61–79.264.1081; R.61–79.264.1082(a)(c); R.61–79.264.1082(c)(1)–(c)(5)(iii); R.61–79.264.1083(c)–(c)(2); R.61–79.264.1083(d); R.61–79.264.1084(a); R.61–79.264.1084(b)–(b)(2); R.61–79.264.1084(c)–(c)(4)(iv); R.61–79.264.1084(d)–(d)(5); R.61–79.264.1084(e)–(e)(3)(vi); R.61–79.264.1084(f)–(f)(3)(iii)(C); R.61–79.264.1084(g)–(g)(3)(v); R.61–79.264.1084(h)–(h)(3); R.61–79.264.1084(i)–(i)(4); R.61–79.264.1084(j)–(j)(2)(ii); R.61–79.264.1084(k)–(k)(2); R.61–79.264.1084(l)–(l)(2); R.61–79.264.1085(a); R.61–79.264.1085(b)–(b)(2); R.61–79.264.1085(c)–(c)(3)(iv); R.61–79.264.1085(d)–(d)(3)(v); R.61–79.264.1085(e)–(e)(2)(ii); R.61–79.264.1085(f)–(f)(2); R.61–79.264.1085(g)–(g)(2); R.61–79.264.1086(a); R.61–79.264.1086(b)–(b)(2); R.61–79.264.1086(c)–(c)(5); R.61–79.264.1086(d)–(d)(4)(iii); R.61–79.264.1086(e)–(e)(5); R.61–79.264.1086(f)–(f)(4); R.61–79.264.1086(g)–(g)(2); R.61–79.264.1086(h)–(h)(3); R.61–79.264.1087(a);

Federal requirement	Federal Register	Analogous State authority [1]
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Land Disposal Restrictions Phase III—Emergency Estension of the K088 Capacity Variance. Checklist 155.	62 FR 1992, 01/14/1997	SCHWMA 44–56–30. SCHWM R.61–79.268.39(c).
Military Munitions Rule: Hazardous Waste Identification and Management; Explosive Emergencies; Manifest Exemptions for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties. Checklist 156.	62 FR 6622, 02/12/1997	SCHWMA 44–56–30. SCHWMA 44–56–70.

Federal requirement	Federal Register	Analogous State authority [1]
		SCHWM R.61–79.260.10; R.61–79.261.2(a)(2)(iii); R.61–79.261.2(a)(2)(iv); R.61–79.262.10(i); R.61–79.262.20(f); R.61–79.263.10(e); R.61–79.263.10(f); R.61–79.264.1(g)(8)(i)(D); R.61–79.264.1(g)(8)(e)(iv); R.61–79.264.1(i); R.61–79.264.70; R.61–79.264.1200; R.61–79.264.1201(a); R.61–79.264.1201(a)(1)–(a)(5); R.61–79.264.1201(b); R.61–79.264.1201(b)(1)–(b)(3); R.61–79.264.1201(c); R.61–79.264.1201(d); R.61–79.264.1201(e); R.61–79.264.1201(f); R.61–79.264.1201(a); R.61–79.264.1201(b); R.61–79.265.1(c)(11)(i)(D); R.61–79.265.1(f); R.61–79.265.70; R.61–79.265.1200; R.61–79.265.1201(a); R.61–79.265.1201(a)(1)–(a)(5); R.61–79.265.1201(b); R.61–79.265.1201(b)(1)–(b)(3); R.61–79.265.1201(c); R.61–79.265.1201(d); R.61–79.265.1201(e); R.61–79.265.1201(f); R.61–79.265.1202(a); R.61–79.265.1202(b); R.61–79.266.200(a); R.61–79.266.200(b); R.61–79.266.201 intro; R.61–79.266.201; R.61–79.266.202(a); R.61–79.266.202(a)(1)–(a)(2); R.61–79.266.202(b); R.61–79.266.202(b)(1)–(b)(4); R.61–79.266.202(c); R.61–79.266.202(c)(1)–(c)(2); R.61–79.266.202(d); R.61–79.266.203(a); R.61–79.266.203(a)(1)–(a)(4); R.61–79.266.203(b); R.61–79.266.203(c); R.61–79.266.204; R.61–79.266.205(a); R.61–79.266.205(a)(1)–(a)(3); R.61–79.266.205(b); R.61–79.266.205(c); R.61–79.266.205(d); R.61–79.266.205(d)(1)–(d)(2); R.61–79.266.205(e); R.61–79.266.206; R.61–79.270.1(c)(3)(i)(D); R.61–79.270.1(c)(3)(iii); R.61–79.270.42(h); R.61–79.270.42(h)(1)–(h)(3); R.61–79.270.42(i).
Land Disposal Restrictions Phase IV Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions. Checklist 157.	62 FR 25998, May 12, 1997	SCHWMA 44–56–30. SCHWM R.61–79.261.1(c)(9)–(c)(12); R.61–79.261.1(c)/Table 1; R.61–79.261.4(a)(13); R.61–79.261.4(a)(14)–(a)(14)(ii); R.61–79.261.6(a)(3)(ii); R.61–79.268.1(e)(4)(ii); R.61–79.268.4(a)(2)(iv); R.61–79.268.4(a)(4); R.61–79.268.7(a)(intro); R.61–79.268.7(a)(1); R.61–79.268.7(a)(1)–(a)(10); R.61–79.268.7(b)(1)–(b)(6); R.61–79.268.7(c)(1)–(c)(2); R.61–79.268.9(a); R.61–79.268.9(d)(1)(ii); R.61–79.268.30(a); R.61–79.268.30(a)(1)–(4); R.61–79.268.30(b); R.61–79.268.30(c); R.61–79.268.30(d); R.61–79.268.30(d)(1)–(d)(4); R.61–79.268.30(e); R.61–79.268.32–268.36; R.61–79.268.40/Table of Treatment Standards for Hazardous Wastes; R.61–79.268.42/Table 1; R.61–79.268.44(o); R.61–79.268.44(o)/Table 1; R.61–79.268 Appendices I, II, III, and X; R.61–79.268 Appendix VI; R.61–79.268 Appendix VII; R.61–79.268 Appendix VIII; R.61–79.268 Appendix X.
Testing and Monitoring Activities Amendment III. Checklist 158.	62 FR 32452, 06/13/1997	SCHWMA 44–56–30. SCHWMA 44–56–40. SCHWM R.61–79.260.11(a)(intro); R.61–79.260.11(a)(1)–(a)(15); R.61–79.264.1034(d)(1)(iii); R.61–79.264.1034(f); R.61–79.264.1063(d)(2); R.61–79.264 Appendix IX, footnote 5; R.61–79.265.1034(d)(1)(iii); R.61–79.265.1034(f); R.61–79.265.1063(d)(2); R.61–79.266.104(e)(1); R.61–79.266.106(g)(1)–(g)(2); R.61–79.266.107(f); R.61–79 Appendix IX, Section 3.0, Note.
Conformance With the Carbamate Vacatur. Checklist 159.	62 FR 32974, 06/17/1997	SCHWMA 44–56–30. SCHWM R.61–79.261.32/table; R.61–79.261.33(f); R.61–79.261 Appendix VII; R.61–79.261 Appendix VIII; R.61–79.268.39(a); R.61–79.268.39(d); R.61–79.268.40 table.

[1] The South Carolina provisions are from the South Carolina Hazardous Waste Management Regulations, September 25, 1998, unless otherwise stated.

H. Where Are the Revised State Rules Different From the Federal Rules?

South Carolina has incorporated the Federal hazardous waste export provisions at 40 CFR part 262, Subparts E and H into its regulations at R.61–79.262. Subparts E and H requirements will be administered by EPA because the exercise of foreign relations and international commerce powers is reserved to the Federal government under the Constitution. South Carolina was encouraged to adopt these regulations for the convenience of the regulated community.

I. Who Handles Permits After the Authorization Takes Effect?

South Carolina will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. At the time the State Program is approved in the new areas, EPA will suspend issuance of Federal permits in the State and terminate those Federal permits issued pursuant to 40 CFR § § 124.5 and 271.8 upon effectiveness of equivalent state permit conditions and South Carolina's compliance with 271.13(d). EPA will also transfer any pending permit applications, completed permits, or pertinent file information to the State within thirty (30) days of the approval of the State Program in conformance with the conditions of this agreement. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which South Carolina is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in South Carolina?

South Carolina has not requested authorization to carry out its hazardous waste program in Indian Country within

the State, which includes the Catawba Indian Nation, and therefore is not authorized to carry out its hazardous waste program in Indian Country within the State. As a result, this action has no effect on Indian Country. EPA will continue to implement and administer the RCRA program in these lands.

K. What Is Codification and Is EPA Codifying South Carolina's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart PP for this authorization of South Carolina's program until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action 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 action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law, 104–4). For the same reason, this action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. This action 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 131,132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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 F.R. 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 F.R. 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective October 22, 2001.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: May 12, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 01–20786 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7034–9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final deletion of the V&M/Albaladejo Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region II, announces the deletion of the V&M/Albaladejo Superfund Site (Site), located in the Almirante Norte Ward of the municipality of Vega Baja, Puerto Rico, from the National Priorities List (NPL) and requests public comment on this action.

The NPL is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. This Direct Final Notice of Deletion is being published by EPA with the concurrence of the Commonwealth of Puerto Rico, through the Puerto Rico Environmental Quality Board (EQB). EPA and EQB have determined that all appropriate response actions under CERCLA have been completed and, therefore, no further cleanup pursuant to CERCLA is appropriate. Moreover, EPA and EQB have determined that the

Site poses no significant threat to public health or the environment.

DATES: This direct final deletion will be effective October 22, 2001 unless EPA receives significant adverse comments by September 20, 2001. If significant 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: Caroline Kwan, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th Floor, New York, New York 10007–1866.

Information Repositories

Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at:

U.S. Environmental Protection Agency, Region II, Superfund Records Center, 290 Broadway, Room 1828, New York, New York 10007–1866, (212) 637–4308, Hours: 9 a.m. to 5 p.m., Monday through Friday; and,

Vega Baja City Hall, Corner of Jose Francisco Nater and Betances Streets, P.O. Box 4555, Vega Baja, Puerto Rico 00693, (787) 855–2500/2515, Hours: 9 a.m. to 4:30 p.m., Monday through Friday; and,

U.S. Environmental Protection Agency, Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce De Leon Avenue, Suite 207, Santurce, Puerto Rico 00907, (787) 729–6951 Ext. 263, Hours: 8 a.m. to 3 p.m., Monday through Friday; By Appointment, and,

Puerto Rico Environmental Quality Board, Emergency Response and Superfund Program, National Bank Plaza, 431 Ponce De Leon Avenue, Hato Rey, Puerto Rico 00917, (787) 767–8181 Ext. 2230, Hours: 9 a.m. to 3 p.m., Monday through Friday, By Appointment.

FOR FURTHER INFORMATION CONTACT: Ms. Caroline Kwan, Remedial Project Manager, U.S. EPA Region II, 290 Broadway, 20th Floor, New York, New York 10007–1866, (212) 637–4275; Fax Number (212) 637–4284; email address: Kwan.Caroline@EPA.GOV.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion

I. Introduction

EPA Region II announces the deletion of the V&M/Albaladejo Superfund Site from the NPL. The EPA maintains the NPL as the list of those sites that appear to present a significant risk to public health or the environment. Sites on the NPL can have remedial actions financed by the Hazardous Substances Superfund Response Trust Fund. As described in Section 300.425(e)(3) of the NCP, a site deleted from the NPL remains eligible for remedial actions if conditions at the site warrant such action.

EPA considers this action to be noncontroversial and routine, and therefore, EPA is taking it without prior publication of a Notice of Intent to Delete. This action will be effective October 22, 2001 unless EPA receives significant adverse comments by September 20, 2001 on this action. If significant adverse comments are received within the 30-day public comment period of this action, 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. EPA will, if appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the V&M/Albaladejo Superfund Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that Sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the Commonwealth, shall consider whether any of the following criteria have been met:

i. Responsible parties or other parties have implemented all appropriate response actions required; or,

ii. All appropriate Fund-financed responses under CERCLA have been implemented, and no further 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, implementing remedial measures is not appropriate.

EPA will not conduct any further reviews of this Site because EPA believes that this Site is suitable for unlimited use and unrestricted exposure. If new information becomes available which indicates a need for further action, EPA may initiate such actions based upon § 300.425(e)(3) of the NCP.

III. Deletion Procedures

The following procedures apply to deletion of the Site.

(1) From January 1998 to June 1998, EPA conducted a removal action at the Site.

(2) EPA conducted confirmatory sampling and a remedial investigation to determine the extent of the contamination of soil and groundwater at the Site.

(3) On September 29, 2000, EPA issued a Record of Decision which selected a no further action remedy for the Site. EPA also issued a Final Close Out report on September 29, 2000 which summarized the actions taken at the Site.

(4) The EPA consulted with the Commonwealth of Puerto Rico Environmental Quality Board on the deletion of the Site from the NPL prior to developing this Direct Final Deletion.

(5) The Commonwealth of Puerto Rico concurred with the deletion of the Site from the NPL on November 3, 2000.

(6) Concurrently with the publication of this Direct Final Deletion, a parallel Notice of Intent to Delete has been published today in the Notice section of the **Federal Register**. Notices are also being published in local newspapers and appropriate notice is being provided to federal, state, and local government officials and other interested parties.

(7) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(8) If no significant adverse comments are received, the Site will be deleted. If significant adverse comments are received within the 30-day public comment period on this action or the Notice of Intent to Delete published in today's **Federal Register**, EPA will publish a timely notice of withdrawal of this Direct Final Deletion before its effective date. EPA will prepare, if appropriate, 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.

IV. Basis for Site Deletion

The V&M/Albaladejo Site is located off State Road No. 160, Kilometer 4.2 in the Almirante Norte Ward of the municipality of Vega Baja, Puerto Rico. It is reached via a dirt road extending about one mile west from Route 160. The exact Site acreage is unknown but generally consists of two farms, the V&M property and the Albaladejo Farm. The area is rural and characterized by rugged, heavily-vegetated, hilly terrain with small farms located in the valleys. The region is sparsely populated within a one-mile radius of the Site. Fewer than 100 residents are estimated to live within one-quarter mile of the Site.

The Site was used for burning and/or dumping of plastic-coated electric cables, electrical equipment, and car batteries. Wire and other materials were burned to recover the copper, aluminum, and lead contained therein. No containment (i.e., berm, liner) system is known to have been used nor has any been observed. It is not known when the burning activity began at the Site. One of the farm owners reported that trucks had been entering the Site carrying wastes since 1985. Burning reportedly ceased on the V&M property in 1986 when it was purchased by its current owner, but continued on the Albaladejo Farm into 1988. The total quantity of waste disposed and burned at the Site is unknown. Four historical waste disposal/burn areas were identified.

In August 1988, the Puerto Rico Environmental Quality Board (EQB) conducted a preliminary assessment at the Site. In January 1989, EPA conducted a site investigation which found elevated levels of copper and antimony in surface soil samples at the Site.

In June 1996, the V&M Site was proposed to the National Priorities List (NPL), with the final listing on December 26, 1996.

A time-critical removal action was conducted from January through June 1998. Based on previous sampling information, contaminated soils were excavated from the four zones. In total, approximately 5,565 cubic yards of contaminated soils were excavated, stockpiled, and stabilized on-Site in a designated area prior to their removal and proper off-Site disposal. The removal action was completed in June 1998.

Confirmatory testing of burn area soils after the excavation of contaminated soils indicated that the concentrations of lead generally had been reduced to below an average concentration of 400 ppm, a level EPA has determined to be protective of children in a residential environment.

Between March and November, 1998, EPA collected four rounds of groundwater samples from six on-Site monitoring wells during the Remedial Investigation (RI) for the V&M Site. Results indicated a decrease in detection of inorganic analytes in the groundwater, coinciding with the completion of the soil removal action. The decrease in levels of inorganics indicated the successful removal of contaminated soil, the source of groundwater contamination. Round 4 sample results were all below drinking water standards.

On September 29, 2000, EPA issued a Record of Decision, selecting No Further Action as the remedy for the Site. It was determined that site-related groundwater contamination does not pose a significant threat to human health or the environment; therefore, remediation is not necessary.

The EPA, with concurrence of the Commonwealth of Puerto Rico, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions under CERCLA are necessary. Therefore, EPA is deleting the Site from the NPL.

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: August 2, 2001.

William J. Muszynski,

Acting Regional Administrator, U.S. EPA, Region II.

For the reasons set out in this document 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9675; 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 under Puerto Rico (PR) by removing the site name ''V&M/Albaladejo'' and the city ''Almirante Norte Ward''.

[FR Doc. 01–20890 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE92

Endangered and Threatened Wildlife and Plants; Establishment of Nonessential Experimental Population Status for 16 Freshwater Mussels and 1 Freshwater Snail (Anthony's Riversnail) in the Free-Flowing Reach of the Tennessee River below the Wilson Dam, Colbert and Lauderdale Counties, AL; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: The Fish and Wildlife Service (Service) published in the **Federal Register** of June 14, 2001, a document concerning the establishment of nonessential experimental population status for 16 freshwater mussels and 1 freshwater snail (Anthony's Riversnail) in the free-flowing reach of the Tennessee River below the Wilson Dam, Colbert and Lauderdale Counties, AL. The ''When Listed'' numbers in the table of species information was inadvertently omitted in the rule. This correction amends that table to include the ''When Listed'' numbers.

DATES: Effective on August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Renne Lohoefner at 703/358–2171; facsimile 703/358–1735; and e-mail *Renne_Lohoefener@fws.gov.*

SUPPLEMENTARY INFORMATION: The Service published a document in the **Federal Register** of June 14, 2001, (66 FR 32250) that inadvertently omitted the ''When Listed'' numbers in the table of species information provided in the rule. This correction amends the table to include the previously missing ''When Listed'' numbers.

The number 709 represents the ''When Listed'' number for each of the 16 Federally listed freshwater mussel species and the 1 Federally listed freshwater snail species. The ''When Listed'' numbers correspond to footnotes at the end of 50 CFR 17.11 and 17.12 that indicate the date and **Federal Register** citation of when animal and plant species were added to the ''List of Endangered and Threatened Wildlife.''

In rule FR Doc. 01–14878 published on June 14, 2001, (66 FR 32250) make the following corrections. On page 32258 through page 32263, the series of periods (.....) found in the ''When Listed'' column (column 5) of the species information table should be removed and replaced with the number 709.

Dated: July 24, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–21071 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 66, No. 162
Tuesday, August 21, 2001

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG82

List of Approved Spent Fuel Storage Casks: Westinghouse MC–10 Termination

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the Westinghouse MC–10 cask system listing within the ''List of Approved Spent Fuel Storage Casks'' terminating Certificate of Compliance Number 1001 as requested by the Westinghouse Government Environmental Services Company.

DATES: Comments on the proposed rule must be received on or before September 20, 2001.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at *http://ruleforum.llnl.gov.* You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. 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.

FOR FURTHER INFORMATION CONTACT: Jayne McCausland, telephone (301) 415–6219, e-mail, jmm2@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: For additional information see the Direct Final Rule published in the final rules section of this **Federal Register**.

Procedural Background

This rule is limited to the removal of CoC No. 1001 from § 72.214 and does not include other aspects of the Westinghouse MC–10 cask system design. The NRC is using the ''direct final rule procedure'' to promulgate this removal because it represents a change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured.

Because NRC considers this action noncontroversial and routine, we are publishing this proposed rule concurrently with a direct final rule. The direct final rule will become effective on November 5, 2001. However, if the NRC receives significant adverse comments on the direct final rule by September 20, 2001, then the NRC will publish a document to withdraw the direct final rule. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR Part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101

Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

§ 72.214 [Amended]

2. In § 72.214, Certificate of Compliance 1001 is removed.

Dated at Rockville, Maryland, this 6th day of August, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–20994 Filed 8–20–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–28–AD]

RIN 2120–AA64

Airworthiness Directives; Reims Aviation S.A. Model F406 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Reims Aviation S.A. (Reims) Model F406 airplanes. The proposed AD would require repetitively inspecting the canted rib upper cap in the center wing carry-through area for cracks, and, if cracks are found, immediately repairing the cracks or modifying this area depending on the extent of any cracks found. The proposed AD would also require modifying the canted rib upper cap at a certain time period as terminating action for the proposed repetitive inspections. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by the proposed AD are intended to detect and correct cracks in the canted rib upper cap in the center wing carry-through area, which could result in structural failure of the wing with possible loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule by September 18, 2001.

ADDRESSES: Send comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–28–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may look at comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

You may get service information that applies to the proposed AD from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. You may read this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Brian A. Hancock, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4143, facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on the Proposed AD?

The FAA invites comments on this proposed rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send your comments in triplicate to the address specified under the caption **ADDRESSES.** The FAA will consider all comments received by the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may read all comments we receive about the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

We are re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clear, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.faa.gov/language/.

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 99–CE–28–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Reims F406 airplanes. The DGAC reports that a crack was found in the canted rib upper cap in the center wing carry-through area during a routine inspection of one of the affected airplanes.

What Are the Consequences if the Condition Is Not Corrected?

This condition, if not detected and corrected in a timely manner, could result in structural failure of the wing with possible loss of control of the airplane.

Is There Service Information That Applies to This Subject?

Cessna has issued REIMS/CESSNA Service Bulletin CAB98–16, dated November 2, 1998.

What are the Provisions of This Service Bulletin?

This service bulletin specifies procedures for:

—Inspecting the canted rib upper cap in the center wing carry-through area for cracks; and

—Modifying this area.

What Action Did the DGAC Take?

The DGAC classified this service bulletin as mandatory and issued

French AD 1999–087(A), dated February 24, 1999, in order to assure the continued airworthiness of these airplanes in France.

Was This in Accordance With the Bilateral Airworthiness Agreement?

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 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 FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD What Has FAA Decided?

The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Reims Model F406 airplanes of the same type design;

—The actions specified in the previously-referenced service information should be done on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Would the Proposed AD Require?

This proposed AD would require you to do the actions specified in the previously-referenced service information.

Cost Impact

How Many Airplanes Would the Proposed AD Impact?

We estimate that the proposed AD affects 4 airplanes in the U.S. registry.

What Would Be the Cost Impact of the Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to do the proposed inspections:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 inspections × 3 workhours × $60 per hour = $720	Not applicable	$720	$2,880

We estimate the following costs to do any necessary modifications that would be required because of the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
60 workhours × $60 per hour = $3,600	$3,375	$6,975	$27,900

Regulatory Flexibility Determination and Analysis

What Are the Requirements of the Regulatory Flexibility Act?

The Regulatory Flexibility Act of 1980 was enacted by Congress to assure that small entities are not unnecessarily or disproportionately burdened by government regulations. This Act establishes ''as principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that the rule will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

What Is FAA's Determination?

The FAA has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. Reims Aviation Model F406 aircraft are produced in France and only 4 airplanes are owned by U.S. entities. Of these 4 airplanes, Cessna Finance Corporation owns 2. Cessna Finance Corporation is part of a larger corporation with more than 1,500 employees and is not considered a small entity. The FAA does not believe that the two remaining entities owning the F406 aircraft constitute a substantial number. Therefore, FAA has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

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, I have determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if issued, 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 has been placed 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, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Reims Aviation S.A.: Docket No. 99–CE–28–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model F406 airplanes, serial numbers F406–0001 through F406–0083, certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct cracks in the canted rib upper cap in the center wing carry-through area, which could result in structural failure of the wing with possible loss of control of the airplane.

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

Action	Compliance time	Procedures
(1) Inspect the canted rib upper cap in the center wing carry-through area for cracks.	Within the next 75 hours time-in-service (TIS) after the effective date of this AD, and thereafter at 200-hour TIS intervals, but not to exceed three 200-hour interval inspections (675 hours TIS: 75-hour TIS initial inspection plus three additional 200-hour TIS repetitive inspections).	Following the ACCOMPLISHMENT INSTRUCTIONS section of REIMS/CESSNA Service Bulletin CAB98–16, dated November 2, 1998.
(2) If, during any inspection required by this AD, cracks are found, accomplish the following: (i) If the cracks are less than 2 inches in length, modify the canted rib upper cap in the center wing carry-through area. (ii) If the cracks are 2 inches in length or more, obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (h) of this AD and incorporate this repair scheme.	Before further flight after the inspection where the crack is found.	Following the ACCOMPLISHMENT INSTRUCTIONS section of REIMS/CESSNA Service Bulletin CAB98–16, dated November 2, 1998.
(3) Modify the canted rib upper cap in the center wing carry-through area.	Within 600 hours TIS after the initial inspection required by paragraph (d)(1) of this AD, unless already accomplished through paragraphs (d)(2)(i) or (d)(2)(ii) of this AD.	Following the ACCOMPLISHMENT INSTRUCTIONS section of RIMS/CESSNA Service Bulletin CAB98–16, dated November 2, 1998.
(4) Accomplishing the repair or modification required in paragraphs (d)(2)(i), (d)(2)(ii), or (d)(3) of this AD is considered terminating action for the inspection requirements of this AD.	Not applicable	Not applicable.

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

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

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

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 following paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific proposed actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Brian A. Hancock, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4143, facsimile: (816) 329–4090.

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

(h) *How can I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. You may read these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in French AD 1999–087(A), dated February 24, 1999.

Issued in Kansas City, Missouri, on August 13, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20940 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–17–AD]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. SA226 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Fairchild Aircraft, Inc. (Fairchild) SA226 series airplanes equipped with Hydromotive Model V1–15–1000 brake master cylinders. The proposed AD would require you to replace these brake master cylinders with new or overhauled units of the same design. The proposed AD is the result of reports of dragging brakes during taxi operations. The actions specified by the proposed AD are intended to correct and prevent future malfunctioning brake master cylinders. Malfunctioning brake master cylinders could cause dragging brakes, which can result in overheated brakes and a wheelwell fire if the dragging takes place during takeoff and the gear is later retracted.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this rule by October 29, 2001.

ADDRESSES: Send three copies of comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–17–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

Service information that applies to the proposed AD may be obtained from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. You may read this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I Comment on the Proposed AD?

We invite your comments on the proposed rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send your comments in triplicate to the address named under the caption **ADDRESSES**. We will consider all comments received by the closing date named above, before taking action on the proposed rule. We may change the proposals contained in this notice because of the comments received.

Are There any Specific Portions of the Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might call for a need to change the proposed rule. You may read all comments we receive in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this proposal.

The FAA is reexamining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We want to read your comments on the ease of understanding this document, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.faa.gov/language/.*

How can I be Sure FAA Receives my Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–17–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused this AD?

The FAA received several reports of dragging brakes on Fairchild SA226 series airplanes when the brake pedals were operated during taxi operations. After troubleshooting by maintenance personnel, the problem was traced to the master brake cylinder. Disassembly of the malfunctioning master cylinders revealed broken check valve spring washers that, together with the action of the shuttle valve, prevented the release of brake pressure when the brake pedal was released after a brake application. Based on observed failures, FAA has determined that the brake master cylinders should be replaced at intervals of 15,000 hours time-in-service.

What are the Consequences if the Condition is not Corrected?

This condition, if not detected or corrected, could cause dragging brakes, which can result in overheated brakes and cause an in-flight wheelwell fire if the dragging takes place during takeoff and the gear is later retracted.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD What has FAA decided?

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—the unsafe condition referenced in this document exists or could develop on other Fairchild SA226 Series airplanes of the same type design equipped with Hydromotive Model V1–15–1000 brake master cylinders; and

—AD action should be taken in order to correct this unsafe condition.

What Would the Proposed AD Require?

This proposed AD would require you to replace or overhaul the brake master cylinders. Procedures are in the applicable Fairchild maintenance manual.

Cost Impact

How Many Airplanes Would the Proposed AD Impact?

We estimate that the proposed AD affects 125 airplanes in the U.S. registry.

What Would Be the Cost Impact of the Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to do any necessary replacements:

Labor cost	New or overhauled parts cost (4 parts for each aircraft required)	Total cost per airplane	Total cost on U.S. operators
8 hours × $60 for each hour=$480	4 parts × $200=$800.00	$1,280,	125 airplanes × $1,280=$160,000.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed 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 proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed in the Rules Docket. You may request a copy of it 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, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fairchild Aircraft, Inc.: Docket No. 2001–CE–17–AD

(a) *What airplanes are affected by this AD?* This AD affects all Fairchild SA226 Series airplanes that are certificated in any category equipped with Hydromotive Model V1–15–1000 brake master cylinders: SA226–AT, SA226–T, SA226–T(B), and SA226–TC.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct and prevent future malfunctioning brake master cylinders. Malfunctioning brake master cylinders could cause dragging brakes, which can result in overheated brakes and a wheelwell fire if the dragging takes place during takeoff and the gear is later retracted.

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

Actions	Compliance	Procedures
Replace the Hydromotive, Inc. Model V1–15–1000 brake master cylinders with new or overhauled Model V1–15–1000 brake master cylinders or FAA-approved equivalent part numbers.	Upon the accumulation of 200 hours time in service (TIS) after the effective date of this AD or 15,000 hours total TIS on the affected brake master cylinders whichever occurs later. Later replacement intervals shall be at 15,000 hours TIS.	Do this action following the procedures in the applicable maintenance or service manual.

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

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

(2) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Send your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193-0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

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

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490. You may read these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 13, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20941 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–19–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GmbH Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228-212 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Dornier Luftfahrt GmbH (Dornier) Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes. The proposed AD would require you to repetitively inspect the horizontal stabilizer skin and ribs for damage and cracks and repair any damaged skin or cracked ribs. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to detect and correct damage and fatigue cracks in the horizontal stabilizer skin and ribs. This condition could cause in-flight separation of the horizontal stabilizer skin with consequent loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before September 21, 2001.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–19–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Fairchild/Dornier, Customer Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (011) 49 8153 300; facsimile: (011) 49 8153 304463. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I Comment on the Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the Proposed AD I Should Pay Attention To?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

We are re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clear, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov*.

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–19–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes. The LBA reports two occurrences of cracks found around the riveted joints of the leading edge skin and ribs of the horizontal stabilizer during an inspection. The LBA reports that the cracks are caused by corrosion and material fatigue.

What Are the Consequences if the Condition is not Corrected?

If this condition is not detected and corrected, in-flight separation of the horizontal stabilizer skin could result with consequent loss of control of the airplane.

Is There Service Information That Applies to This Subject?

Dornier has issued Fairchild\Dornier Service Bulletin No. SB–228–234, dated October 13, 2000.

What are the Provisions of This Service Bulletin?

The service bulletin includes procedures for:

—inspecting the horizontal stabilizer ribs for cracks;

—inspecting the horizontal stabilizer skin for cracks and damage around the riveted joints;

—repairing or replacing any cracked ribs; and

—repairing any damaged skin.

What Action Did LBA Take?

The LBA classified this service bulletin as mandatory and issued German AD Number 2001–045, dated January 26, 2001, in order to assure the continued airworthiness of these airplanes in Germany.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These airplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA Decided?

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Dornier Models 228-100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes of the same type design;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Would the Proposed AD Require?

This proposed AD would require you to incorporate the actions in the previously-referenced service information.

Is There a Modification I can Incorporate Instead of Repetitively Inspecting the Horizontal Stabilizer Structure?

The FAA has determined that long-term continued operational safety would be better assured by design changes that remove the source of the problem rather than by repetitive inspections or other special procedures. With this in mind, FAA will continue to work with Dornier in collecting information and in performing fatigue analysis to determine whether a future design change may be necessary.

Compliance Time of the Proposed AD

What is the Compliance Time of the Proposed AD?

The compliance time of the proposed AD would be to accomplish the initial inspection ''within the next 100 hours time-in-service (TIS) after the effective date of this AD'', repetitive inspections at ''intervals not to exceed 100 hours TIS'', and any necessary repairs or replacements ''prior to further flight after the inspection.''

Why is the Initial Inspection Compliance Time of the German AD Different From the Initial Inspection Compliance Time in the Proposed AD?

The German AD requires (on Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes registered in Germany) the initial inspection within the next 10 flight hours. This is the compliance time specified in the service information. We do not have justification to require the initial inspection within 10 flight hours. We use a compliance time such as this when we have identified an urgent safety of flight situation. We believe that 100 hours TIS will give the owners/operators of the affected airplanes enough time to have the initial inspection and repairs and/or replacements accomplished without compromising the safety of the airplanes.

By accomplishing both the initial inspection and replacement at the same time, the owners/operators of the affected airplanes only have their airplanes out of service once instead of twice.

Cost Impact

How Many Airplanes Would the Proposed AD Impact?

We estimate that the proposed AD affects 14 airplanes in the U.S. registry.

What Would be the Cost Impact of the Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 Workhours × $60 per hour = 240	No parts required for the inspection	$240.	$3,360.

The FAA has no method of determining the number of repetitive inspections each owner/operator would incur over the life of each of the affected airplanes so the cost impact is based on the initial inspection.

The FAA has no method of determining the number of repairs or replacements each owner/operator would incur over the life of each of the affected airplanes based on the results of the proposed inspections. We have no way of determining the number of airplanes that may need such repair. The extent of damage may vary on each airplane.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

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 proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed 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) 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 has been placed 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, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Dornier Luftfahrt GMBH: Docket No. 2001–CE–19–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category;

Model	Serial numbers
228–101	7003 through 7116, 7167 and 7168.
228–101	7003 through 7116, 7167 and 7168.
228–200	All serial numbers beginning with 8002.
228–201	All serial numbers beginning with 8002.
228–202	All serial numbers beginning with 8002.
228–212	All serial numbers beginning with 8002.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct damage and fatigue cracks in the horizontal stabilizer skin and ribs. This condition could cause in-flight separation of the horizontal stabilizer skin with consequent loss of control of the airplane.

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

Actions	Compliance	Procedures
(1) Perform the following inspections:	Within the next 100 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not-to-exceed 100 hours TIS.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild-Dornier Service Bulletin No. SB228–234, dated October 13, 2000, and the applicable aircraft maintenance manual.
(i) Inspect, using a boroscope (or equivalent), the horizontal stabilizer ribs for cracks.		
(ii) Inspect the horizontal stabilizer skin for damage (cracks and/or loose rivets).		
(2) Repair or replace any cracked rib and repair any damage to the horizontal stabilizer skin found during any inspection required in paragraph (d)(1) of this AD.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	In accordance with the applicable structural repair manual.
(3) Report any cracks or damage found during the initial inspections required in paragraphs (d)(1)(i) and (d)(1)(ii) of this AD to Fairchild/Dornier Customer Support, through the FAA. 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.	Upon completion of the inspections required by this AD.	In accordance with the ACCOMPLISHMENTS INSTRUCTIONS section of Fairchild/Dornier Service Bulletin No. SB–228–234, dated October 13, 2000. Fill out the compliance form. Send it to Fairchild/Dornier at the address specified in paragraph (h) of this AD and send a copy to FAA at the address in paragraph (f) of this AD.

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

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

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

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Fairchild\Dornier, Customer Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (011) 49 8153 300; facsimile: (011) 49 8153 304463. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in German AD Number 2001–045, dated January 26, 2001.

Issued in Kansas City, Missouri, on August 15, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21011 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340–21]

Privacy Act; Implementation

AGENCY: Department of the Army, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army is proposing to amend an existing exemption rule for the Privacy Act systems of records on the Offense Reporting System and the Army Family Advocacy, Program Files. The exemption rule is being amended to add reasons from which information may be exempt, and to update the reasons for taking the exemptions.

DATES: Comments must be received on or before October 22, 2001 to be considered by this agency.

ADDRESSES: Send comments to Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

The Director of Administration and Management, Office of the Secretary of Defense, hereby determines that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the

environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interface with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grant, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate 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 and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

List of Subjects in 32 CFR Part 505 Privacy

Accordingly, 32 CFR part 505 is proposed to be amended to read as follows:

PART 505—[AMENDED]

1. The authority citation for 32 CFR part 505 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 505.5 is proposed to be amended by revising paragraphs (e)(12) and (e)(32) to read as follows:

§ 505. Exemptions.

* * * * *

(e) * * *

(12) *System identifier:* A0190–45 DAMO

(i) *System name:* Offense Reporting System (ORS)

(ii) *Exemptions:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reason:* (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement. (B) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigation information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greater extent possible from the subject individual would present a serious impediment to law enforcement in that the subject to the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4) (G) and (H) because this system of records is exempt from individual access pursuant to subsection (j)(2) of the Privacy Act of 1974.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because this system of records has been exempted

from the access provisions of subsection (d).

(L) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(M) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

(32) *System identifier:* A0608–18 DASG.

(i) *System name:* Army Family Advocacy Program (FAP) Files

(ii) *Exemptions:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iv) *Reason:* (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement. (B) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (k)(2) and (k)(5) of the Privacy Act of 1974.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(G) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. the controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

Dated: August 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–20745 Filed 8–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Instruction 37–132]

Privacy Act; Implementation

AGENCY: Department of the Air Force.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force is proposing to amend two existing exemption rules for the Privacy Act system of records notices F031 AF SP E, Security Forces Management Information System (SFMIS) and F44 AF SG Q, Family Advocacy Program Records. The Air Force is listing the reasons for exempting from disclosure certain provisions of the Privacy Act of 1974.

DATES: Comments must be received on or before October 22, 2001 considered by this agency.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, CI0–BIM/P, 1250 Air Force Pentagon, Washington, DC 20330–1250.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 588–0561 or DSN 425–0561.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

The Director of Administration and Management, Office of the Secretary of Defense, hereby determines that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the

environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency: (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

The Director of Administrator and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate 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 and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

List of Subjects in 32 CFR Part 806b Privacy.

Accordingly, 32 CFR part 806b is proposed to be amended as follows:

PART 806B–[AMENDED]

1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Appendix C to section 806b is proposed to be amended by revising paragraph a.(3) and paragraph b.(6) to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Appendix C to Part 806b—General and Specific Exemptions

a. *General exemptions.* * * *

3. *System identifier and name:* F031 AF SP E, Security Forces Management Information System (SFMIS).

(i) *Exemption*: Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function and activity pertaining to the enforcement of criminal laws. Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) To protect ongoing investigations and to protect from access criminal investigation information contained in this record system, so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the file.

(B) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(C) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(D) From subsection (d) because access to the records contained in this system would inform the subject of an investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection, an would present a serious impediment to law enforcement.

(E) From subsection (e)(4)(H) because this system of records is exempt from individual access pursuant to subsection (j) of the Privacy Act of 1974.

(F) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(G) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Instruction, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

b. * * *

(6) *System identifier and name:* F44 AF SG Q, Family Advocacy Program Records.

(1) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(c)(3) and (d), but only to the extent that disclosure would reveal the identify of a confidential source.

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsections (c)(3) and (d) because the exemption is needed to encourage those who know of exceptional medical or educational conditions or family maltreatments to come forward by protecting their identities and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accounting, could interfere with ongoing investigations and the orderly administration of justice, in that it could

result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well being of parents and their children. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment and Federal contracts, and that was obtained by providing an express or implied promise to the source that his or her identity would not be revealed to the subject of the record.

* * * * *

Dated: August 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–20746 Filed 8–20–01; 8:45 am]

BILLING CODE 5001–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4139b; FRL–7037–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Five Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for five major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section or paragraph of that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by September 20, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182 or Pauline Devose at (215) 814–2186, the EPA Region III address above or by e-mail at *quinto.rose@epa.gov* or *devose.pauline@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

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

Dated: August 10, 2001.

Judith Katz,

Acting Regional Administrator, Region III.

[FR Doc. 01–21031 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4143b; FRL–7038–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eight Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for eight major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by September 20, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division,

U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Janice Lewis at (215) 814–2185 or Betty Harris at (215) 814–2168, the EPA Region III address above or by e-mail at *lewis.janice@epa.gov* or *harris.betty@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

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

Dated: August 10, 2001.

Judith Katz,

Acting Regional Administrator, Region III.

[FR Doc. 01–21029 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4138b; FRL–7038–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eleven Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for eleven major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the Final Rules section of this **Federal Register,** EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn. If that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by September 20, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Catherine Magliocchetti at (215) 814–2174, or Ellen Wentworth (215) 814–2034 at the EPA Region III address above or by e-mail at *magliocchetti.catherine@epa.gov.* or *wentworth.ellen@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

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

Dated: August 10, 2001.

Judith Katz,

Acting Regional Administrator, Region III.

[FR Doc. 01–21027 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7034–2]

Hazardous Waste Management System; Proposed Exclusion for Identifying and Listing Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and request for comment.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is proposing to grant a petition submitted by Ormet Primary Aluminum Corporation (Ormet) to exclude (or ''delist'') vitrified spent potliner (generated from primary aluminum production) at Ormet's Hannibal, Ohio plant from the lists of hazardous wastes contained in subpart D of part 261.

The Agency has evaluated the waste-specific information provided by Ormet and has tentatively decided to grant the exclusion based on our conclusion that Ormet's vitrified spent potliner (VSP) is nonhazardous. This proposed decision, if finalized, conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: *Comments.* We will accept public comments on this proposed decision until October 5, 2001. We will stamp comments postmarked after the close of the comment period as ''late.'' These ''late'' comments may not be considered in formulating a final decision.

Request for Public Hearing. Your request for a hearing must reach EPA by September 5, 2001. The request must contain the information prescribed in § 260.20(d).

ADDRESSES: *Comments.* Please send two copies of your comments to Todd Ramaly, Waste Management Branch (DW–8J), Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL 60604.

Request for Public Hearing. Any person may request a hearing on this proposed decision by filing a request with Robert Springer, Director, Waste, Pesticides and Toxics Division (D–8J), Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, contact Todd Ramaly at the address above or at (312) 353–9317. The RCRA regulatory docket for this proposed rule is located at the U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. Call Todd Ramaly at (312) 353–9317 for appointments. The public may copy material from the regulatory docket at $0.15 per page.

SUPPLEMENTARY INFORMATION:

I. *Overview Information*
A. What action is EPA proposing?
B. Why is EPA proposing to approve this delisting?
C. How will Ormet manage the waste if it is delisted?
D. When would EPA finalize the proposed delisting exclusion?
E. How would this action affect States?
II. *Background*
A. What is the history of the delisting program?
B. What is a delisting petition, and what does it require of a petitioner?
C. What factors must EPA consider in deciding whether to grant a delisting petition?
III. *EPA's Evaluation of the Waste Information and Data*
A. What waste did Ormet petition EPA to delist?
B. What information and analyses did Ormet submit to support this petition?
C. How is the petitioned waste generated?
D. How did Ormet sample and analyze the data in this petition?
E. What were the results of Ormet's analysis?
F. How did EPA evaluate the risk of delisting this waste?
G. What other factors did EPA consider in evaluating this waste?
H. What did EPA conclude about Ormet's analysis?
I. What is EPA's final evaluation of this delisting petition?
IV. *Conditions for Exclusion*
A. What are the maximum allowable concentrations of hazardous constituents in the waste?
B. How frequently must Ormet test the waste?
C. What must Ormet do if the process changes?
D. What data must Ormet submit?
E. What happens if Ormet's waste fails to meet the conditions of the exclusion?
V. *Regulatory Impact*
VI. *Regulatory Flexibility Act*
VII. *Paperwork Reduction Act*
VIII. *Unfunded Mandates Reform Act*
IX. *Executive Order 13045*
X. *Executive Order 13175*
XI. *National Technology Transfer And Advancement Act*
XII. *Executive Order 13132—Federalism*

I. Overview Information

A. What Action Is EPA Proposing?

The EPA is proposing to grant Ormet's petition to have vitrified spent potliner from the primary reduction of aluminum at Ormet's Hannibal, Ohio plant, excluded, or delisted, from the definition of a hazardous waste. We evaluated the petition using a fate and transport model to predict the concentration of hazardous constituents which could be released from the petitioned waste after it is disposed.

B. Why Is EPA Proposing To Approve This Delisting?

Ormet petitioned EPA to exclude, or delist, the VSP because Ormet believes that the petitioned waste does not meet the RCRA criteria for which EPA originally listed the waste and believes there are no additional constituents or factors which could cause the waste to be hazardous.

We evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (3). We also considered the original listing criteria and any additional factors which could cause the waste to be hazardous, as required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(2)–(4).

These factors included: (1) Whether the waste is considered acutely toxic; (2) the toxicity of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the hazardous constituents to migrate and to bioaccumulate; (5) persistence of hazardous constituents in the environment once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

Based on our review of the analytical data and other submitted information we agree with the petitioner that the waste is nonhazardous with respect to the original listing criteria and that there are no additional factors which could cause the waste to be hazardous. If our review had found that the waste remained hazardous, we would have proposed to deny the petition. We have therefore concluded that the waste should be delisted.

C. How Will Ormet Manage the Waste If It Is Delisted?

If the petitioned waste is delisted, Ormet must dispose of it in a Subtitle D landfill licensed or permitted by a State to manage industrial waste. Ormet may also dispose of the delisted waste in a permitted Subtitle C landfill.

D. When Would EPA Finalize the Proposed Delisting Exclusion?

HSWA specifically requires the EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not make a final decision or grant an exclusion until it has considered and addressed all timely public comments (including any at public hearings) on today's proposal.

Since this rule would reduce the existing requirements for a person generating hazardous wastes, the regulated community does not need a six-month period to come into compliance in accordance with section 3010 of RCRA as amended by HSWA. Therefore, the exclusion would become effective upon finalization.

E. How Would This Action Affect the States?

Because EPA is issuing today's exclusion under the federal RCRA delisting program, only states subject to federal RCRA delisting provisions would be affected. This exclusion may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements, or in states which have received our authorization to make their own delisting decisions.

EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, we urge the petitioner to contact the state regulatory authority to establish the status of its waste under the state law.

EPA has also authorized some states to administer a delisting program in place of the federal program. That is, to make state delisting decisions. Therefore, this exclusion does not apply in those authorized states. If Ormet transports the petitioned waste to or manages the waste in any state with delisting authorization, Ormet must obtain a delisting from that state before it can manage the waste as nonhazardous in the state.

II. Background

A. What Is the History of the Delisting Program?

The EPA published an amended list of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA. The EPA has amended this list several times and published it in 40 CFR 261.31 and 261.32.

We list these wastes as hazardous because: (1) they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (that is, ignitability, corrosivity, reactivity, and toxicity) or (2) they meet the criteria for listing contained in §§ 261.11(a)(2) or (3).

Individual waste streams may vary depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations generally is hazardous, a specific waste from an individual facility that meets the listing description may not be hazardous.

For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows a person to demonstrate that EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

B. What Is a Delisting Petition, and What Does It Require of a Petitioner?

A delisting petition is a request from a facility to EPA or an authorized state to exclude wastes from the list of hazardous wastes. In a delisting petition, the petitioner must show that the waste generated at a particular facility does not meet any of the criteria for listed wastes. The criteria for which EPA lists a waste are in 40 CFR 261.11 and in the background documents for the listed wastes.

In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (See § 260.22, 42 U.S.C. 6921(f) and the background documents for a listed waste.)

A generator remains obligated under RCRA to confirm that its waste remains nonhazardous.

C. What Factors Must EPA Consider in Deciding Whether To Grant a Delisting Petition?

EPA must consider any factors (including additional constituents) other than those for which we listed the waste if these additional factors could cause the waste to be hazardous. (See HSWA of 1984.) EPA must also consider as a hazardous waste, mixtures containing listed hazardous wastes and wastes derived from treatment of listed hazardous waste. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. These wastes are also eligible for exclusion but remain hazardous wastes until excluded.

III. EPA's Evaluation of the Waste Information and Data

A. What Wastes Did Ormet Petition EPA to Delist?

Ormet submitted an ''upfront'' petition in April 1994 to exclude vitrified spent potliner, K088, generated at its Hannibal Ohio plant, from the list of hazardous wastes contained in 40 CFR 261.32. K088 is defined as ''spent potliner from the primary reduction of aluminum.'' In December 1999 Ormet submitted a revised petition for an annual volume of 8,500 cubic yards of K088 generated under full scale operation. The EPA reviews a petitioner's estimated volume and, on occasion, has requested a petitioner to re-evaluate the estimated waste generation rate. EPA accepts Ormet's estimate of annual volume of waste.

B. What Information and Analyses Did Ormet Submit To Support This Petition?

To support its petition, Ormet submitted (1) descriptions and schematic diagrams of the aluminum reduction process generating the K088 and the vitrification system used to treat the K088; (2) analyses for total and TCLP metals, total and TCLP volatile and semivolatile organics, total cyanide, total and TCLP fluoride, total sulfides, total dioxins and furans, oil and grease; pH, and reactivity; (3) analyses for leachable metals, cyanide, and fluoride, using the TCLP procedure with neutral and basic extraction fluids.

C. How Is the Petitioned Waste Generated?

Aluminum is produced by the reduction of alumina (aluminum oxide) in large iron pots. The pot is lined with anthracite coal which serves as the cathode. Anodes in the center of the bath are constructed of petroleum coke and a pitch binder. The pot is filled with a mixture of aluminum oxide, cryolite and aluminum fluoride and a direct current is passed from the anode to the cathode. The heat generated by the resistance of the solid mixture causes it to melt and at the surface of the cathode the molten aluminum oxide is reduced to aluminum. The molten aluminum is periodically withdrawn from the bottom of the cell and cast into ingots, billets, or pigs.

In the reducing environment, atmospheric nitrogen reacts with the carbon of the potliner to form cyanide within the potliner. Over the life of the cathode, the carbon lining of the pot becomes impregnated with cryolite, as well as with sodium and fluoride. In addition, the potliner may also be contaminated with heavy metals. As the cryolite is absorbed into the cathode, the lining of the pot will crack and heave. When the lining fails, the molten aluminum can come in contact with the iron pot. If this happens, the aluminum will pick up impurities from the iron. Upon failure, the potliner must be replaced. The pot is removed from service, emptied and cooled, and the spent potliner is stripped from the steel shell by mechanical means.

Spent potliner from primary aluminum reduction is hazardous waste K088. This waste was originally listed for complexes of cyanide, although Land Disposal Restriction treatment standards 40 CFR 268.40 for K088 have been established for cyanide, fluoride, heavy metals, and PAHs.

Ormet treats the spent potliner generated at the Hannibal plant in an on-site treatment unit. The treatment unit is a natural gas fired combustion melting system which vitrifies the spent potliner. The glass-like VSP fractures into a cullet or frit upon quenching. The State of Ohio currently allows Ormet to recycle the VSP. The system also generates a baghouse dust which is mostly sodium fluoride. The proposed exclusion is for the glass-like VSP only.

D. How Did Ormet Sample and Analyze the Data in This Petition?

In April of 1994, Ormet sought an upfront exclusion for the VSP based on the results of pilot-scale treatment of the spent potliner. Ormet collected and analyzed five composite samples each of untreated spent potliner and VSP during the pilot study. All samples were analyzed for: total and TCLP metals plus antimony, beryllium, nickel, thallium, tin, vanadium, and zinc; total volatile and semivolatile organic compounds; total fluoride; total cyanide; reactivity; pH; and oil & grease. All untreated spent potliner samples and one sample of the vitrified spent potliner were also analyzed by TCLP for 10 VOCs and 67

SVOCs. Two samples of vitrified spent potliner were analyzed for dioxins and furans.

Four samples of vitrified spent potliner were collected in August 1998 after the full-scale operation was established and were analyzed for: total antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, potassium, selenium, silver, sodium, and thallium; TCLP arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver; total and TCLP VOCs and SVOCs; total fluoride; total and leachable cyanide; reactivity; pH; and oil & grease. One sample of vitrified spent potliner collected in August 1998 was analyzed for dioxins and furans.

To demonstrate stability over a range of pH possible in landfill leachate, Ormet collected an additional ten samples of VSP in June 1999 to demonstrate that the treated VSP is stable over a range of pH values.

Ormet demonstrated that the treated VSP is stable over a range of pH by using the TCLP procedure but substituting: (1) Deionized water and (2) 0.1 normal sodium hydroxide solution for the extraction fluid prescribed in the TCLP.

Eight composite samples of VSP were collected in June 1999 and analyzed for total antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, silver, and thallium; total SVOCs, total fluoride; total cyanide. These samples were also analyzed for the above metals plus vanadium, zinc, and fluoride by the TCLP, SW 846 Method 1311, and by the TCLP procedure in which both neutral and an alkaline extraction fluids were substituted for the extraction fluid specified in Method 1311. Samples were analyzed for TCLP cyanide using both neutral and alkaline extraction fluids, and for pH. Five of the composite samples were also analyzed for TCLP SVOCs.

To quantify the total constituent and extraction fluid concentrations, Ormet used the following SW–846 Methods: arsenic 6010, 7060; antimony 6010, 7041; barium 6010; beryllium 6010; cadmium 6010; chromium 6010; lead 6010, 7421; mercury 7471 and 7471A; nickel 6010; selenium 7740, 7741; silver 6010; thallium 7841; tin 6010; vanadium 6010; zinc 6010; VOCs 8260, 8260B; SVOCs 8270, 8270B; TCLP SVOCs 8270C; cyanide 9010; sulfides 9030; dioxins and furans 8290; pH 9045; and reactive cyanide and reactive sulfides Sections 7.3.3.2 and 7.3.4.2 of SW–846. From ''Methods for Chemical Analysis of Water and Wastes'' Ormet used methods 340.1 and 340.2 for fluoride, method 418.1 for oil and grease, and method 335.2 for leachable cyanide using TCLP procedure with deionized water.

E. What Were the Results of Ormet's Analysis?

Table 1 presents the maximum total and leachate concentrations for detected constituents in VSP. The values reported in the table are the maximum values detected in any one sample, with the exception of chromium. Chromium was detected at levels higher than expected during the pilot study. This was attributed to refractory materials within the pilot-scale furnace which contained relatively high concentrations of chromium. A low-chromium refractory was used in the full-scale furnace and the chromium analytical data from the pilot study were not used. For inorganic constituents, the maximum reported leachate concentrations for metals in the treated VSP were well below the health-based levels of concern used in decision-making for delisting. No organic constituents were detected except an insignificant concentration of 2,3,4,6,7,8 hexachloro-dibenzo furan found in just one sample.

EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with the petition binds the petitioner to present truthful and accurate results. Ormet submitted a signed Certification of Accuracy and Responsibility statement presented in 40 CFR 260.22(i)(12).

F. How Did EPA Evaluate the Risk of Delisting This Waste?

For this delisting determination, we identified plausible exposure routes (i.e., ground water, surface water, air) for hazardous constituents present in the petitioned waste. We used a fate and transport model to predict the release of hazardous constituents and to evaluate the potential impact of the petitioned waste on human health and the environment once it is disposed. We used a Windows based software tool, the Delisting Risk Assessment Software Program (DRAS), to estimate the potential releases of waste constituents and to predict the risk associated with those releases using several EPA models including EPA's Composite Model for leachate migration with Transformation Products (EPACMTP) fate and transport model for groundwater releases. For a detailed description of the DRAS program and the EPACMTP model, see 65 FR 58015, September 27, 2000 and 65 FR 75897, December 5, 2000. The DRAS program is available on the World Wide Web at *http://www.epa.gov/earth1r6/6pd/rcra_c/pd-o/dras.htm.* A technical support document for the DRAS program is available in the public docket.

For constituents which are not detected in the extract but are detected as a total concentration, the DRAS model requires that the detection level be entered along with the other data. For these constituents, the DRAS uses one half of the detection level to calculate risk. We believe that it is inappropriate to evaluate constituents which are not detected if an appropriate analytical method was used.

G. What Other Factors Did EPA Consider in Evaluating This Waste?

We also considered the applicability of groundwater monitoring data during the evaluation of delisting petitions. In this case, we determined that it would be inappropriate to request groundwater monitoring data because the waste is not currently being land disposed. Therefore, we did not request ground water monitoring data from Ormet. Potential impacts of the petitioned waste via air emission and storm water run-off are addressed in the DRAS.

H. What Did EPA Conclude About Ormet's Analysis?

After reviewing Ormet's petition, the EPA concludes that (1) no hazardous constituents are likely to be present above health based levels of concern in the VSP generated at Ormet's Hannibal, Ohio Plant; and (2) the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, reactivity, or toxicity. See 40 CFR 261.21, 261.22, 261.23, and 261.24, respectively.

The total cumulative risk posed by the waste is well below the U.S. EPA Region 5 Delisting Program's target level of 1×10^{-6}. The aggregate hazard index for this waste is estimated to be 0.0139, which is also well below the target of 1.0.

I. What Is EPA's Final Evaluation of This Delisting Petition?

We have reviewed the sampling procedures used by Ormet and have determined that they satisfy EPA criteria for collecting representative samples of the VSP. The descriptions of the hazardous waste treatment process and the analytical data, together with the proposed verification testing requirements, provide a reasonable basis for EPA to grant the exclusion. We believe the data submitted in support of the petition show that the waste will not pose a threat when disposed of in a Subtitle D landfill. We therefore,

propose to grant Ormet an exclusion for the VSP generated at Ormet's Hannibal, Ohio Plant.

If we finalize this proposed exclusion, the Agency will no longer regulate the petitioned waste under 40 CFR parts 262 through 268 and the permitting standards of part 270.

IV. Conditions for Exclusion

A. What Are the Maximum Allowable Concentrations of Hazardous Constituents in the Waste?

Table 1 summarizes maximum allowable concentrations in an extract using the DRAS program and the point of exposure (POE) concentrations of concern in groundwater. Allowable levels are determined only for constituents which were detected in one or more samples. The allowable leachate concentrations were derived from either the health-based calculation within the DRAS program, from SWDA Maximum Contaminant Level Goals (MCLs), treatment technique, or toxicity characteristic values, whichever resulted in a lower delisting level. The only exception was arsenic.

The delisting level for arsenic at the target risk level of 1×10^{-6} is 0.00107 mg/L in a TCLP extract which is well below the best detection limit achieved by Ormet. EPA's July 1996 *Soil Screening Guidance: User's Guide,* EPA/540/R–96/018, states that acceptable levels of contaminants in soils for the groundwater pathway can be derived from MCLs. If the POE target concentration is set at the Safe Drinking Water Act (SWDA) Maximum Contaminant Level (MCL), the maximum allowable waste leachate concentration would be 1.1 mg/L TCLP arsenic. According to EPA's January 2001 *Technical Fact Sheet: Final Rule for Arsenic in Drinking Water,* EPA 815–F–00–015, naturally occurring levels of arsenic in public drinking water systems can range from .002 to .01 mg/L. Therefore, some allowance has been exercised in setting the allowable level for arsenic at a concentration which corresponds to a cancer risk of 1×10^{-4}. This corresponds to a POE concentration of approximately one tenth of the existing MCL. Delisting levels for constituents other than arsenic will still be set at concentrations corresponding to the original target level of 1×10^{-6}.

Since the spent potliner is undergoing treatment after generation and prior to disposal, the applicable LDR treatment standards for K088 must also be met before the VSP can be land disposed. Based on the data submitted, the vitrified spent potliner does not exceed current LDR treatment standards as identified in Table 1. Ormet must comply with all future LDR treatment standards promulgated under 40 CFR 268.40 for K088.

TABLE 1.—CONSTITUENT CONCENTRATIONS AND DRAS MAXIMUM ALLOWABLE LEACHATE AND POINT OF EXPOSURE LEVELS

Constituent	Maximum [1] observed total concentration (mg/kg)	Maximum [1] observed leachate concentration (mg/L TCLP)			Maximum allowable leachate concentration (mg/L TCLP)	Maximum allowable concentration based on LDRs (mg/kg or m/L TCLP)	Maximum allowable point of exposure concentration (mg/L in groundwater)
		acidic	neutral	alkaline			
Antimony	<20	<2	<0.04	<0.04	0.235[2]	1.15 mg/L TCLP	0.006[2]
Arsenic	5.1	<1	<0.008	<0.008	0.107	5 mg/L TCLP	0.005
Barium	320 0.3		0.08	<0.02	63.5[2]	26.1 mg/kg 21 mg/L TCLP	2.0[2]
Beryllium	15	<0.1	<0.005	<0.005	0.474[2]	1.2[2] mg/L TCLP	0.004[2]
Cadmium	<0.5	<0.1	<0.005	<0.005	0.171[2]	0.11 mg/L TCLP	0.005[2]
Chromium	140	<0.2	<0.04	<0.04	1.76[2]	0.6 mg/L TCLP	0.1[2]
Lead	30	<1	<0.2	<0.2	5[3]	0.75 mg/L TCLP	0.015[2]
Mercury	<0.25	<0.005	<0.005	<0.005	0.17[2]	0.025 mg/L TCLP	0.002[2]
Nickel	210	0.27	<0.08	<0.08	32.2	11 mg/L TCLP	0.753
Selenium	1.8	<1	<0.2	<0.2	0.661[2]	5.7 mg/L TCLP	0.05[2]
Silver	12	<0.4	<0.02	<0.02	4.38	0.14 mg/L TCLP	0.187
Thallium	<0.5	<0.05	<0.01	<0.01	0.1[2]	0.2 mg/L TCLP	0.002[2]
Tin	<1	<0.2	NR	NR	257	NA	22.5
Vanadium	74	0.022	<0.02	<0.02	24.1	1.6 mg/L TCLP	2.63
Zinc	390	0.31	<0.04	<0.04	320	4.3 mg/L TCLP	11.27
Cyanide	14	NR	<0.01	<0.01	4.11	NA mg/L TCLP 590 mg/kg 30 mg/kg amen.	0.2[2]
Fluoride	26,100	6	2.6	2.4	NA	NA	NA
Sulfide	450	NR	NR	NR	NA	NA	NA
Acenaphthene	<0.170	NR	NR	NR	NR	3.4 mg/kg	NA
Anthracene	<0.170	NR	NR	NR	NR	3.4 mg/kg	NA
Benz(a)anthracene	<0.170	NR	NR	NR	NR	3.4 mg/kg	NA
Benzo(a)pyrene	<0.170	NR	NR	NR	NR	3.4 mg/kg	NA
Benzo(b)fluoranthene	<0.170	NR	NR	NR	NR	6.8 mg/kg	NA

TABLE 1.—CONSTITUENT CONCENTRATIONS AND DRAS MAXIMUM ALLOWABLE LEACHATE AND POINT OF EXPOSURE LEVELS—Continued

Constituent	Maximum [1] observed total concentration (mg/kg)	Maximum [1] observed leachate concentration (mg/L TCLP)			Maximum allowable leachate concentration (mg/L TCLP)	Maximum allowable concentration based on LDRs (mg/kg or m/L TCLP)	Maximum allowable point of exposure concentration (mg/L in groundwater)
		acidic	neutral	alkaline			
Benzo(k)fluoranthene	<0.170	NR	NR	NR	NR	6.8 mg/kg	NA
Benzo(g,h,i)perylene	<0.170	NR	NR	NR	NR	1.8 mg/kg	NA
Chrysene	<0.170	NR	NR	NR	NR	3.4 mg/kg	NA
Dibenz(a,h)anthracene	<0.170	NR	NR	NR	NR	8.2 mg/kg	NA
Fluoranthene	<0.170	NR	NR	NR	NR	3.4 mg/kg	NA
Indeno(1,2,3,-c,d)pyrene	<0.170	NR	NR	NR	NR	3.4 mg/kg	NA
Phenanthrene	<0.170	NR	NR	NR	NR	5.6 mg/kg	NA
Pyrene	<0.170	NR	NR	NR	NR	8.2 mg/kg	NA

[1] These levels represent the highest constituent concentration found in any sample and are not necessarily the specific levels found in any one sample.
[2] The concentration is based on the MCL or TT action level.
[3] The concentration is based on the toxicity characteristic level in 40 CFR 261.24.
NA Not applicable.
NR Analysis not run.

B. How Frequently Must Ormet Test the Waste?

Ormet must demonstrate on a quarterly basis that the constituents of concern in the petitioned waste do not exceed the levels of concern in Table 1 above. Ormet must collect two representative samples of the treated VSP per month and analyze the samples using: (a) the TCLP method, (b) the TCLP procedure with an extraction fluid of 0.1 Normal sodium hydroxide solution. Appropriate detection levels and quality control procedures are required.

C. What Must Ormet Do If the Process Changes?

If Ormet significantly changes either the manufacturing process, the treatment process, or the chemicals used in the treatment process, Ormet must manage wastes generated after the process change as hazardous waste until Ormet has received written approval from EPA. Ormet may not handle the VSP generated from the new process under this exclusion until it has demonstrated to EPA that the waste meets the levels set in section IV.A and that no new hazardous constituents listed in appendix VIII of 40 CFR part 261 have been introduced.

D. What Data Must Ormet Submit?

Ormet must submit an annual summary of the data obtained through monthly verification testing to U.S. EPA Region 5, Waste Management Branch (DW–8J), 77 W. Jackson Blvd., Chicago, IL 60604, by February 1 of each year for the prior calendar year. Ormet must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. Ormet must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

E. What Happens If Ormet Fails To Meet the Conditions of the Exclusion?

If Ormet violates the terms and conditions established in the exclusion, the Agency may start procedures to withdraw the exclusion.

If the monthly testing of the waste does not meet the delisting levels described in section IV.A above, Ormet must notify the Agency within ten days. The exclusion will be suspended and the waste managed as hazardous until Ormet has received written approval for the exclusion from the Agency. Ormet may provide sampling results that support the continuation of the delisting exclusion.

The EPA has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978) *et seq.* (APA), to reopen a delisting decision if we receive new information indicating that the conditions of this exclusion have been violated, or otherwise not met.

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion, if promulgated, would reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from today's proposed rule, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rule making for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (that is, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, the Agency certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with federal mandates that may result in estimated costs to state, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for EPA rules, under section 205 of the UMRA EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law.

Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, EPA must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local, or tribal governments or the private sector.

The EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any state, local, or tribal governments or the private sector. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. Executive Order 13045

Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

X. Executive Order 13175

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The effect of this rule would be limited to one facility. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

XI. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, the Agency is directed to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where EPA does not use available and potentially applicable voluntary consensus standards, the Act requires the Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards, and thus the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

XII. Executive Order 13132—Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that impose 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. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implications. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it affects only one facility.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA

specifically solicits comment on this proposed rule from State and local officials.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: August 1, 2001.

Robert Springer,

Director, Waste, Pesticides and Toxics Division.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 2 of appendix IX of part 261 it is proposed to add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to part 261—Wastes Excluded Under §§ 260.20 and 260.22.

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address and waste description
* * *	* * * *
Ormet Primary Aluminum Corporation.—Hannibal, Ohio ..	Vitrified spent potliner (VSP), K088, that is generated by Ormet Primary Aluminum Corporation in Hannibal, Ohio at a maximum annual rate of 8,500 cubic yards per year and disposed of in a Subtitle D landfill, after (insert publication date of the final rule). 1. *Delisting Levels:* (A) The constituent concentrations measured in any of the extracts specified in Paragraph (2) may not exceed the following levels (mg/L): Antimony—0.235; Arsenic—0.107; Barium—63.5; Beryllium—0.474; Cadmium—0.171; Chromium (total)—1.76; Lead—5; Mercury—0.17; Nickel—32.2; Selenium—0.661; Silver—4.38; Thallium—0.1; Tin—257; Vanadium—24.1; Zinc—320; Cyanide—4.11. (B) LDR treatment standards for K088 must also be met before the VSP can be land disposed. Ormet must comply with any future LDR treatment standards promulgated under 40 CFR 268.40 for K088. 2. *Verification Testing:* (A) On a quarterly basis, Ormet must analyze two samples of the waste using (a) the TCLP method, and (b) the TCLP procedure with an extraction fluid of 0.1 Normal sodium hydroxide solution. The constituent concentrations measured must be less than the delisting levels established in Paragraph (1). Ormet must also comply with LDR treatment standards in accordance with 40 CFR 268.40. (B) If the quarterly testing of the waste does not meet the delisting levels set forth in paragraph (1), Ormet must notify the Agency in writing in accordance with Paragraph (5). The exclusion will be suspended and the waste managed as hazardous until Ormet has received written approval for the exclusion from the Agency. Ormet may provide sampling results that support the continuation of the delisting exclusion. 3. *Changes in Operating Conditions:* If Ormet significantly changes the manufacturing process or chemicals used in the manufacturing process or significantly changes the treatment process or the chemicals used in the treatment process, Ormet must notify the EPA of the changes in writing. Ormet must handle wastes generated after the process change as hazardous until Ormet has demonstrated that the wastes continue to meet the delisting levels set forth in Paragraph (1) and that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced and Ormet has received written approval from EPA. 4. *Data Submittals:* Ormet must submit the data obtained through monthly verification testing or as required by other conditions of this rule to U.S. EPA Region 5, Waste Management Branch (DW–8J), 77 W. Jackson Blvd., Chicago, IL 60604 by February 1 of each calendar year for the prior calendar year. Ormet must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. Ormet must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12). 5. *Reopener Language*—(a) If, anytime after disposal of the delisted waste, Ormet possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) indicating that any constituent identified in Paragraph (1) is at a level in the leachate higher than the delisting level established in Paragraph (1), or is at a level in the groundwater higher than the point of exposure groundwater levels referenced by the model, then Ormet must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data. (b) Based on the information described in paragraph (5)(a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address and waste description
	(c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify Ormet in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing Ormet with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. Ormet shall have 30 days from the date of the Regional Administrator's notice to present the information. (d) If after 30 days Ormet presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.
* * *	* * * *

[FR Doc. 01–21045 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7037–1]

South Carolina: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: South Carolina has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to South Carolina. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by September 20, 2001.

ADDRESSES: Send written comments to Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW Atlanta, GA, 30303–3104; (404) 562–8440. You can examine copies of the materials submitted by South Carolina during normal business hours at the following locations: EPA Region IV Library, Atlanta Federal Center, Library, 61 Forsyth Street, SW, Atlanta, Georgia 30303; phone number:(404) 347–4216, or the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, phone number: (803)896–4174.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW Atlanta, GA, 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: June 12, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 01–20787 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7034–8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the V&M/Albaladejo Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II is issuing a notice of intent to delete the V&M/Albaladejo Superfund Site (Site), located in the Almirante Norte Ward of the municipality of Vega Baja, Puerto Rico, from the National Priorities List (NPL) and requests public comment on this action. The NPL is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. The EPA and the Commonwealth of Puerto Rico, through the Puerto Rico Environmental Quality Board, have determined that all appropriate response actions under CERCLA have been completed and that the Site poses no significant threat to public health or the environment. In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final notice of deletion of the V&M/Albaladejo Superfund Site without prior notice of this action because we view this as a noncontroversial revision and anticipate no significant adverse comment. We have explained our reasons for this deletion in the preamble

to the direct final deletion. If we receive no significant adverse comment(s) on this action, we will not take further action on this notice of intent to delete. If we receive significant 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. If, after evaluating public comments, EPA decides to proceed with deletion, we will do so 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 September 20, 2001.

ADDRESSES: Written comments should be addressed to: Caroline Kwan, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th Floor, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: Ms. Caroline Kwan at the address provided above, or by telephone at (212) 637–4275, by Fax at (212) 637–4284 or via e-mail at Kwan.Caroline@EPA.GOV.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9675; 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: August 2, 2001.

William J. Muszynski,

Acting EPA Regional Administrator, U.S. EPA, Region II.

[FR Doc. 01–20891 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 66, No. 162
Tuesday, August 21, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV01–369]

Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of establishment; request for nominations.

SUMMARY: The U.S. Department of Agriculture (USDA) has established the Fruit and Vegetable Industry Advisory Committee (Committee). The purpose of the Committee is to examine the full spectrum of issues faced by the fruit and vegetable industry and provide suggestions and ideas to the Secretary of Agriculture on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. USDA also seeks nominations of individuals to be considered for selection as Committee members.

DATES: Written nominations must be received on or before September 20, 2001.

ADDRESSES: Nominations should be sent to Mr. Robert C. Kenney, Deputy Administrator, Fruit and Vegetable Programs, AMS, USDA, Room 2077 South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4722, E-mail—*robert.keeney@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture has established the Fruit and Vegetable Industry Advisory Committee. The purpose of the Committee is to examine the full spectrum of issues faced by the fruit and vegetable industry and provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the fruit and vegetable industry's needs.

The members of the Committee will elect the Chairperson and Vice-Chairperson of the Committee who will serve for a 2-year term. In absence of the Chairperson, the Vice-Chairperson will act in the Chairperson's stead. The Deputy Administrator of the Agricultural Marketing Service's Fruit and Vegetable Programs will serve as the Committee's Executive Secretary. Representatives from USDA mission areas and agencies affecting the fruit and vegetable industry will be called upon to participate in the Committee's meetings as determined by the Committee Chairperson.

Industry members will be appointed by the Secretary of Agriculture and serve 2-year terms. Membership will consist of twenty (20) members who represent the fruit and vegetable industry and will include; six (6) representatives of fresh fruit and vegetable growers/shippers; four (4) representatives of fresh fruit and vegetable wholesalers; two (2) representatives of brokers; two (2) representatives of retailers; two (2) representatives of fruit and vegetable processors; two (2) representatives of foodservice suppliers; one (1) state department of agriculture official; and one (1) trade association representative.

The Secretary of Agriculture invites those individuals, organizations, and groups affiliated with the categories listed above to nominate individuals for membership on the Committee. Nominations should describe and document the proposed member's qualifications for membership to the Committee. The Secretary of Agriculture seeks a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its programs to meet the fruit and vegetable industry's needs.

Individuals receiving nominations will be contacted and biographical information must be completed and returned to USDA within 10 working days of notification, to expedite the clearance process that is required before selection by the Secretary of Agriculture.

Equal opportunity practices will be followed in all appointments to the Committee in accordance with USDA policies. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, persons with disabilities, and limited resource agriculture producers.

Dated: August 15, 2001.

Lou Gallegos,

Assistant Secretary for Administration.

[FR Doc. 01–21040 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–064–2]

Animal Disease Risk Assessment, Prevention, and Control Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of change of date for public meeting and extension of comment period.

SUMMARY: We are announcing a change in the date of a public meeting regarding the development of a report required by the Animal Disease Risk Assessment, Prevention, and Control Act of 2001 and are extending the period during which we will accept comments on the subject. The report will discuss the economic impacts that would be associated with the potential introduction of foot-and-mouth disease, bovine spongiform encephalopathy, and related diseases into the United States; the potential risks posed by those diseases to public and animal health; and recommendations to protect the health of animal herds and U.S. citizens from those risks. We will use the information gathered through public comments to assist us in developing this report. Extending the comment period and postponing the meeting will allow interested persons additional time to prepare and submit comments.

DATES: We invite you to comment on Docket No. 01–064–1, published in the **Federal Register** (66 FR 41195–41197) on August 7, 2001. We will consider all comments that we receive by October 9, 2001. We will also consider comments made at a public meeting that will be held on September 28, 2001, from 9 a.m. to noon.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–064–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–064–1.

We will also accept comments electronically via the Animal Disease Risk Assessment, Prevention, and Control website at http://comments.aphis.usda.gov.

You may read any comments that we receive on Docket No. 01–064–1 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

The public meeting will be held at the USDA Center at Riverside, 4700 River Road, Riverdale, MD, Conference Rooms C and D.

FOR FURTHER INFORMATION CONTACT: Mr. William O. Macheel, Policy and Program Development, APHIS, 4700 River Road Unit 120, Riverdale, MD 20737–1236; (301) 734–4420.

SUPPLEMENTARY INFORMATION: On August 7, 2001, we published in the **Federal Register** (66 FR 41195–41197, Docket No. 01–064–1) a notice regarding the Animal Disease Risk Assessment, Prevention, and Control Act of 2001. In that notice, we solicited comments on the development of a report required by that Act and announced that we would be hosting a public meeting on that subject.

Comments on the development of the report were required to be received on or before September 6, 2001, and the public meeting was scheduled to take place on August 24, 2001. We are extending the comment period on Docket No. 01–064–1 for an additional 30 days until October 9, 2001. We are also postponing the public meeting; that meeting is now scheduled for September 28, 2001. This action will allow interested persons additional time to prepare and submit comments.

Done in Washington, DC, this 16th day of August 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–21089 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–025N]

Codex Alimentarius Commission: Meeting of the Codex Committee on Nutrition and Foods for Special Dietary Uses

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), are sponsoring a public meeting, on Friday, October 12, 2001. The purpose of this public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the 23rd Session of the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU), to be held in Berlin, Germany, November 26–30, 2001. The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 23rd Session of CCNFSDU and to address items on the agenda.

DATE: The public meeting is scheduled for Friday, October 12, 2001, from 1:00 p.m. to 4:00 p.m.

ADDRESSES: The public meeting will be held in Room 1409, Federal Building 8, U.S. Food and Drug Administration, 200 C Street, SW., Washington, DC 20204. To receive copies of the documents referenced in this notice, contact the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net.* Submit one original and two copies of written comments to FSIS Docket Room at the address above and reference Docket 01–025N. All comments submitted in response to this notice will be available for public inspection in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough Ph.D., U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250. Telephone (202) 205–7760; Fax: (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Dr. Scarbrough at the above number.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The CCNFSDU was established to study specific nutritional problems assigned to it by the Commission and advise the Commission on general nutritional issues; to draft general provisions as appropriate, concerning the nutritional aspects of all foods; to develop standards, guidelines or related texts for foods for special dietary uses, in cooperation with other committees when necessary; and to consider, amend if necessary, and endorse provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines and related texts. The committee is hosted by the Federal Republic of Germany.

Issues to be Discussed at the Public Meeting

The following items will be on the Agenda for the 23rd Session of the Committee and will be discussed at this meeting. Documents related to these items will be issued from Codex in Rome and will be available prior to the meeting.

- Guidelines for Use of Nutrition Claims: Draft Table of Conditions for Nutrient Contents: Dietary Fibre
- Draft Revised Standard for Gluten-Free Foods

- Proposed Draft Revised Standard for Processed Cereal-Based Foods for Infants and Young Children
- Proposed Draft Revised Standard for Infant Formula
- Proposed Draft Guidelines for Vitamin and Mineral Supplements
- Proposed Draft Revision of the Advisory List(s) of Mineral Salts and Vitamin Compounds for the Use in Foods for Infants and Young Children (CAC/GL 10–1979)
- Discussion Paper on Review of Provisions for Vitamins and Minerals in Codex Standards: Vitamins and Minerals in Foods for Special Medical Uses
- Discussion Paper on Energy Conversion Factors
- Discussion Paper on Recommendations of the FAO/WHO Expert Consultation on Food Consumption and Exposure Assessment of Chemicals
- Sports and Energy Drinks

Public Meeting

At the October 12th public meeting, the issues and draft United States positions on the issues will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (*see* **ADDRESSES**). Please state that your comments relate to CCNFSDU activities and specify which issues your comments address.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: August 16, 2001.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 01–21042 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–026N]

Codex Alimentarius Commission: Meeting of the Codex Committee on Cocoa Products and Chocolate

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), are sponsoring a public meeting, on Wednesday, September 12, 2001. The purpose of this public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the 19th Session of the Codex Committee on Cocoa Products and Chocolate (CCCPC), to be held in Fribourg, Switzerland, October 3–5, 2001. The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 19th Session of CCCPC and to address items on the agenda.

DATE: The public meeting is scheduled for Wednesday, September 12, 2001, from 10:00 a.m. to 12:00 p.m.

ADDRESSES: The public meeting will be held in Room 1409, Federal Building 8, U.S. Food and Drug Administration, 200 C Street, SW., Washington, DC 20204. To receive copies of the documents referenced in this notice, contact the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net.* Submit one original and two copies of written comments to FSIS Docket Room at the address above and reference Docket 01–026N. All comments submitted in response to this notice will be available for public inspection in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough Ph.D., U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250. Telephone (202) 205–7760; Fax: (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Dr. Scarbrough at the above number.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Cocoa Products and Chocolate was established to elaborate worldwide standards for cocoa products and chocolate. The committee is hosted by Switzerland.

Issues To Be Discussed at the Public Meeting

The following items will be on the Agenda for the 19th Session of the Committee and will be discussed at this meeting.

- Matters referred by the Commission and Other Codex Committees (CX/CPC 01/1)
- Draft Standard for Chocolate and Chocolate Products (CL 2000/46–CPC, ALINORM 01/14 Appendix V)

Public Meeting

At the September 12th public meeting, the issues and draft United States positions on the issues will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). Please state that your comments relate to CCCPC activities

and specify which issues your comments address.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: August 16, 2001.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 01–21043 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Programs

Posting of Stockyards

Pursuant to the authority provided under section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below are stockyards as defined by section 302(a). Notice was given to the stockyard owners and to the public as required by section 302(b), by posting notice at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

	Facility No., name, and location of stockyard	Date of posting
CA–188	Martella Livestock Market, Inc. Tipton, California	March 1, 1999.
IN–166	United Producers, Inc., Little York, Indiana	May 28, 2001.
MO–282	The Cow Palace, Inc., Sedgewickville, Missouri	February 13, 1999.
MT–122	Montana Livestock Company, Ramsey, Montana	March 16, 1999.
NC–175	Benson Horse Auction, Benson, North Carolina	July 22, 2000.
SC–158	Strickland Auction Co., Gaston, South Carolina	October 25, 2000.

Done at Washington, D.C. this 23rd day of July 2001.

John Pitchford,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–21041 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Caribbean Area Field Office Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of Availability of proposed changes in the Caribbean Area NRCS Field Office Technical Guide for review and comment.

SUMMARY: The NRCS Director for the Caribbean Area has determined that change must be made in the Field Office Technical Guide, specifically, in Conservation Practice Standards for Nutrient Management (590) and Waster utilization (633). These practices will be used to plan and install conservation practices on cropland, pastureland, woodland, and wildlife land.

DATES: Comments will be received on or before September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Juan A. Martinez, Director, Natural Resources Conservation Service (NRCS), P.O. Box 364868, San Juan, PR 00936–4868, Telephone Number (787) 766–5206, Extension 237, Fax number (787) 766–5987. Copies of the Practice Standards will be made available upon request to the address shown above.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996, states that revisions made after enactment of the law to NRCS 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 in the Caribbean Area will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in the Caribbean Area regarding disposition of those comments and a final determination of change will be made to the subject standards.

Dated: June 29, 2001.

Jose E. Martinez,

Staff Resource Conservationist, Natural Resources Conservation Service, Caribbean Area.

[FR Doc. 01–20943 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Louisiana

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in the NRCS National Handbook of Conservation Practices for review and comment.

SUMMARY: It is the intention of the NRCS in Louisiana to issue revised conservation practice standard: Wetland Wildlife Habitat Management (644)

DATES: Comments will be received on or before September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Donald W. Gohmert, State Conservationist, Natural

Resources Conservation Service (NRCS), 3737 Government Street, Alexandria, Louisiana 71302. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture 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 in Louisiana will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Louisiana regarding disposition of those comments and a final determination of change will be made.

July 19, 2001.

Donald W. Gohmert,

State Conservationist, USDA, Natural Resources Conservation Service, Alexandria, Louisiana.

[FR Doc. 01–20944 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

East Kentucky Power Cooperative, Inc., Notice of Intent

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of intent to hold a public meeting and prepare an environmental assessment.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations for Implementing the National Environmental Policy Act (40 CFR parts 1500–1508), and RUS Environmental Policies and Procedures (7 CFR part 1794), proposes to prepare an Environmental Assessment related to possible financing assistance to East Kentucky Power Cooperative, Inc., related to the construction and operation of two 250 megawatt electric power units.

Meeting Information: RUS and East Kentucky Power Cooperative, Inc., will conduct a public meeting on Thursday, September 6, 2001, from 6:00 p.m. until 8:00 p.m. at the French Quarter Inn, 25 East McDonald Parkway, Maysville, Kentucky.

Government agencies, private organizations, and the public are invited to participate in the planning and analysis of the proposed project. Representatives of RUS and East Kentucky Power Cooperative, Inc., will be available at the public meeting to discuss RUS' environmental review process, describe the project and alternatives under consideration, discuss the scope of environmental issues to be considered, answer questions, and accept oral and written comments. Written comments will be accepted for 30 days after the public scoping meeting.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Engineering and Environmental Staff, Rural Utilities Service, at (202) 720–0468. Mr. Quigel's E-mail address is bquigel@rus.usda.gov. Information is also available from Bob Hughes of East Kentucky Power Cooperative, Inc., at (859) 744–4812. Mr. Hughes' e-mail address is bobh@ekpc.com.

SUPPLEMENTARY INFORMATION: East Kentucky Power Cooperative, Inc., proposes to add two 250 megawatt coal fired electric generation units at its Spurlock Station located in Mason County, Kentucky, near Maysville. The units will consist of two circulating fluidized bed boilers, two turbine-generators, two baghouses, two dry scrubbers, two selective non-catalytic reduction units, and two 720-foot stacks. The project will include two transmission lines. One of the transmission lines will be 345 kilovolt (kV) from the Spurlock Station to an inter-tie to an existing 345 kV transmission line in Brown County, Ohio. The length of the line will be approximately 3.5 miles with a 150-foot wide right-of-way. This transmission line will cross the Ohio River. The other transmission line will be 138 kV. It will be constructed between the Cranston Distribution Substation and the Rowan County Substation. Its length is approximately 7.5 miles with a 100-foot wide right-of-way. It will be located entirely within Rowan County, Kentucky.

Alternatives considered by RUS and East Kentucky Power Cooperative, Inc., include: (a) No action, (b) purchased power, (c) load management (d) hydro-electric, (e) biomass, (f) geothermal, (g) wind and solar, (h) fuel cells, (i) co-generation, and (j) various site locations.

An alternatives evaluation and siting study for the projects was submitted to RUS by East Kentucky Power Cooperative, Inc. The alternatives evaluation and siting study is available for public review at RUS in Room 2242, 1400 Independence Avenue, SW, Washington, DC, and at the headquarters of East Kentucky Power Cooperative, Inc., 4775 Lexington Road, Winchester, Kentucky. This document will also be available at the Clark County Public Library, 370 South Burns Avenue, Winchester, Kentucky, (859) 744–5661, the Mason County Public Library, 218 East Third Street, Maysville, Kentucky, (606) 564–3286, the Rowan County Public Library, 185 East First Street, Morehead, Kentucky, (606) 784–7137, and the Brown County Public Library, 200 West Grant Avenue, Georgetown, Ohio, (937) 378–3197.

From information provided in the alternatives evaluation and site selection study, input that may be provided by government agencies, private organizations, and the public, East Kentucky Power Cooperative, Inc., will prepare an environmental analysis to be submitted to RUS for review. RUS will use the environmental analysis to determine the significance of the impacts of the projects and may adopt it as its environmental assessment of the projects. RUS'' environmental assessment of the project will be available for review and comment for 30 days.

Should RUS determine, based on the environmental assessment of the project, that the impacts of the construction and operation of the project will not have a significant environmental impact, it will prepare a finding of no significant impact. Public notification of a finding of no significant impact will be published in the **Federal Register** and in newspapers with a circulation in counties where the power plants and transmission line are proposed to be located.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with environmental review requirements as prescribed by Council on Environmental Quality and RUS environmental policies and procedures.

Dated: August 14, 2001.

Glendon D. Deal,

Acting Director, Engineering and Environmental Staff.

[FR Doc. 01–21068 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–837]

Antidumping Duty Investigation Covering Greenhouse Tomatoes from Canada: Notice of Postponement of Preliminary Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary antidumping duty determination in antidumping duty investigation.

EFFECTIVE DATES: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Ross or Minoo Hatten, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone; (202) 482–4794 or (202) 482–1690, respectively.

SUMMARY: The Department of Commerce is postponing the preliminary determination of the antidumping duty investigation on greenhouse tomatoes from Canada from September 4, 2001, until September 24, 2001. This extension is made pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On April 17, 2001, the Department initiated an antidumping duty investigation on greenhouse tomatoes from Canada covering manufacturers and exporters of the subject merchandise to the United States during the period January 1, 2000, through December 31, 2000. See *Initiation of Antidumping Duty Investigation: Greenhouse Tomatoes From Canada,* 66 FR 20630 (April 24, 2001). The notice stated that, unless postponed, the Department would issue its preliminary determination no later than 140 days after the date of the initiation.

Postponement of Preliminary Determination

Pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), on August 10, 2001, the petitioners filed a request that the Department postpone the preliminary determination for the investigation covering greenhouse tomatoes from Canada. The petitioners' request for postponement was timely, and the Department finds no compelling reason to deny the request.

Therefore, pursuant to section 733(c)(1)(A) of the Act, we are postponing the preliminary determination in this investigation until September 24, 2001. This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

Dated: August 15, 2001.

Bernard T. Carreau,

Acting Assistant Secretary, Import Administration.

[FR Doc. 01–21076 Filed 8–20–01; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–805]

Suspension Agreement on Silicomanganese From Ukraine; Termination of Suspension Agreement and Notice of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Termination of the suspension agreement on silicomanganese from Ukraine and notice of antidumping duty order.

SUMMARY: On July 19, 2001, the Government of Ukraine (''GOU'') submitted a memorandum to the Department of Commerce (''the Department'') officially requesting termination of the suspension agreement on silicomanganese from Ukraine (''the Agreement.'') In accordance with section XIII of the Agreement, termination shall be effective 60 days after notice of termination of the Agreement is given to the Department. Pursuant to both petitioner's and respondents' request of November 1, 1994, the Department issued a final determination in this investigation (*See Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Ukraine*, 59 FR 62711–01 (December 6, 1994). Because the International Trade Commission (''ITC'') determined that an industry in the United States was materially injured by reason of imports of silicomanganese from Ukraine that were being sold at less than fair value, the Department hereby issues an antidumping duty order, effective 60 days from the termination request of the GOU, *i.e.*, September 17, 2001.

EFFECTIVE DATE: September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Jean Kemp or Stephen Bailey, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–4037 or (202) 482–1102, respectively.

SUPPLEMENTAL INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to section 735(d) of the Tariff Act of 1930 (1993) (''the Act''). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 353 (1993).

Background

On October 31, 1994, the Department signed an agreement with the GOU which suspended the antidumping investigation on silicomanganese from Ukraine. *See Silicomanganese from Ukraine; Suspension of Investigation*, 59 FR 60951 (November 29, 1994). In accordance with section 734(g) of the Act, on December 6, 1994, the Department published its final determination of sales at less than fair value in this case. *See Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Ukraine*, 59 FR 62711 (December 6, 1994). On December 21, 1994, the ITC determined that an industry in the United States was materially injured by reason of imports of silicomanganese from Ukraine that were being sold at less than fair value. (*See* Silicomanganese from Brazil, China, Ukraine and Venezuela, Inv. Nos. 731–TA–671–674 (Final) USITC Pub. 2836 (December 1994)).

On November 30, 1999, petitioner submitted a request for an administrative review of the Agreement pursuant to the notice of *Antidumping and Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 64 FR 62167 (November 16, 1999). On December 28, 1999, the Department initiated a review of the Agreement. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 64 FR 72644, (''*Initiation Notice*''). On December 5,

2000, the Department published the preliminary results of its administrative review of the Agreement on Silicomanganese from Ukraine (65 FR 75921) (''*Preliminary Results*'').

On November 2, 1999, the Department initiated (*Notice of Initiation of Five-Year ''Sunset'' Reviews*, 64 FR 59160) and the ITC instituted (*Silicon Metal From Argentina, Brazil, and China and Silicomanganese From Brazil, China, and Ukraine*, 64 FR 59204, 59209) a sunset review of the suspended antidumping duty investigation on silicomanganese from Ukraine, pursuant to section 751(c) of the Act. As a result of its review, on September 27, 2000, the Department determined that termination of the agreement on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margin likely to prevail were the agreement terminated (*Final Results of Full Sunset Review: Silicomanganese from Ukraine*, 65 FR 58045). On February 5, 2001, the ITC determined that termination of the suspended investigation on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*Silicomanganese from Brazil, China, and Ukraine Investigations Nos. 731–TA–671–673 (Review*), 66 FR 8981; ITC Publication # 3386). Therefore, on February 16, 2001, the Department published its notice of *Continuation of Antidumping Duty Orders on Silicon Metal From Brazil and China and on Silicomanganese From Brazil and China, and Continuation of Suspended Antidumping Duty Investigation on Silicomanganese From Ukraine*, 66 FR 10669, which continued the suspended investigation on silicomanganese from Ukraine, pursuant to sections 751(c) and 752 of the Act.

On June 11, 2001, the Department published its final results of administrative review of the suspended investigation on silicomanganese from Ukraine. *See Suspension Agreement on Silicomanganese from Ukraine; Final Results of Administrative Review*, 66 FR 31206. In that notice, the Department found that the GOU was not in compliance with the Agreement during the period of review, November 1, 1998 through October 31, 1999, and stated that ''Article XII of the Agreement requires that prior to making a determination of an alleged violation, the Department will engage in emergency consultations with the GOU.'' (*Id.* at 31208) As a result, on June 4, 2001, the Department requested emergency consultations with the GOU under Article XII of the Agreement. In accordance with the Agreement, consultations were held between the Department and the GOU on June 7, June 12, and July 5, 2001 (*See Memorandum to the File from Lesley Stagliano through Joe Spetrini*, July 12, 2001).

On July 19, 2001, as provided for by Article XII of the Agreement, the GOU submitted a Memorandum concluding that ''the Ministry of Economy of Ukraine has in good faith fulfilled its obligations within the framework of the Agreement suspending the Antidumping investigation on silicomanganese from Ukraine.'' However, the GOU, ''taking into consideration a different viewpoint of the U.S. Department of Commerce,'' asked the Department ''to consider [the Memorandum] as an official request to terminate the Agreement Suspending the Antidumping Investigation on Silicomanganese from Ukraine.''

Scope of Agreement

The merchandise covered by this agreement is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon, and iron, and normally containing much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. All compositions, forms and sizes of silicomanganese are included within the scope of this agreement, including silicomanganese slag, fines and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. This agreement covers all silicomanganese, regardless of its tariff classification. Most silicomanganese is currently classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (''HTS''). Some silicomanganese may also currently be classifiable under HTS subheading 7202.99.5040. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Termination of Suspended Investigation and Issuance of Antidumping Duty Order

Article XIII of the Agreement states:

> The Government of Ukraine may terminate this Agreement at any time upon notice to the Department. Termination shall be effective 60 days after such notice is given to the Department. Upon termination at the request of the Government of Ukraine, the provisions of section 734(i) of the Act shall apply.

Because the underlying investigation in this proceeding was continued, the Department made a final determination of dumping, and the ITC found material injury, the investigation was completed. The applicable statute at section 734(i)(1)(A) stipulates that the Department shall:

> Suspend liquidation under section 733(d)(1) of unliquidated entries of the merchandise made on or after the later of (i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or (ii) the date on which the merchandise was in violation of the agreement, or under an agreement which no longer meets the requirements of subsection (b) and (d) or (c) and (d), was first entered, or withdrawn from warehouse, for consumption * * *

The GOU's termination is effective September 17, 2001, which is the date the Agreement will no longer meet the requirements of section 734(d) of the Act. Therefore, the Department will direct Customs to suspend liquidation effective September 17, 2001. In accordance with section 734(i)(1)(C) of the Act, the Department hereby issues an antidumping duty order effective September 17, 2001, which is 60 days from date of the termination request of the GOU.

Antidumping Duty Order

In accordance with section 736(a)(1) of the Act, the Department will direct Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all entries of silicomanganese from Ukraine. These antidumping duties will be assessed on all unliquidated entries of silicomanganese from Ukraine entered, or withdrawn from warehouse, for consumption on or after September 17, 2001.

We will instruct the Customs Service to require a cash deposit for each entry equal to the antidumping duty margins found in our final determination of December 6, 1994, as listed below. These suspension-of-liquidation instructions will remain in effect until further notice. The ''Ukraine-Wide Rate'' applies to all producers and exporters of subject silicomanganese not specifically listed. The final weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin
Ukraine-Wide Rate	163%

This notice constitutes the antidumping duty order with respect to silicomanganese from Ukraine. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This notice is published in accordance with sections 734(i), and 777(i) of the Act. This order is published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: August 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–21077 Filed 8–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–489–807)

Certain Steel Concrete Reinforcing Bars from Turkey: Notice of Extension of Time Limits for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is extending the time limits of the final results of the antidumping duty administrative review on certain steel concrete reinforcing bars from Turkey. The review covers four producers/exporters of the subject merchandise to the United States. The period of review is April 1, 1999, through March 31, 2000.

EFFECTIVE DATE: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Irina Itkin at (202) 482–0656, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Postponement of Final Results of Administrative Review

The Department issued the preliminary results of the 1999–2000 administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey on May 4, 2001 (66 FR 22525 (May 4, 2001)). The current deadline for the final results in this review is September 4, 2001. In accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2), the Department finds that the final results cannot be issued within the original time frame due to the large number of sales and cost issues raised by the parties in their case briefs.

Because it is not practicable to complete this administrative review within the time limits mandated by section 751(a)(3)(A) of the Act, as amended by the Uruguay Round Agreements Act, and 19 CFR 351.213(h)(2), the Department is extending the time limits for completion of the final results of the administrative review until October 31, 2001.

Dated: August 15, 2001.

Susan Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–21078 Filed 8–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration, Commerce

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended export trade certificate of review, Application No. 95–3A006.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to Water and Wastewater Equipment Manufacturers Association (''WWEMA'') on June 21, 1996. Notice of issuance of the Certificate was published in the **Federal Register** on July 12, 1996 (61 FR 36708).

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2000).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 95–00006, was issued to WWEMA on June 21, 1996 (61 FR 36708, July 12, 1996) and previously amended on May 20, 1997 (62 FR 29104, May 29, 1997) and February 23, 1998 (63 FR 10003, February 27, 1998).

WWEMA's Export Trade Certificate of Review has been amended to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Aqua-Aerobic Systems, Inc., Rockford, Illinois; Pentair Pump Group, Inc., North Aurora, Illinois; and ITT Industries, for the activities of its division Sanitaire, Brown Deer, Wisconsin;

2. Delete the following companies as ''Members'' of the Certificate: Aero-Mod, Incorporated, Manhattan, Kansas; Elsag Bailey Process Automation N.V. for the activities of its unit Bailey-Fischer & Porter Company, Warminster, Pennsylvania; CBI Walker, Inc., Aurora, Illinois; Dorr-Oliver Incorporated, Milford, Connecticut; Enviroquip, Inc., Austin, Texas; General Signal Corporation for the activities of its unit General Signal Pump Group, North Aurora, Illinois; The Gorman-Rupp International Company, Mansfield, Ohio; Great Lakes Environmental, Inc., Addison, Illinois; Hycor Corporation, Lake Bluff, Illinois; I. Kruger, Inc., Cary, North Carolina; Jeffrey Chain Corporation, Morristown, Tennessee; Mass Transfer Systems, Inc., Fall River, Massachusetts; Patterson Pump Co., Taccoa, Georgia; SanTech, Inc. dba Sanborn Technologies, Medway, Massachusetts; Wallace & Tiernan, Inc., Belleville, New Jersey; Water Equipment Technologies, Inc., West Palm Beach, Florida; Water-Pollution Control Corp, Brown Deer, Wisconsin; Waterlink, Inc., Canton, Ohio; and Waterlink Operational Services, Inc. dba Blue Water Services, Manhattan, Kansas; and

3. Change the listing of the company name for the current Members: A.O. Smith Harvestore Products, Inc. to the new listing A.O. Smith Engineered Storage Products Company; and The

Capital Controls Group to the new listing Capital Controls Company, Inc.

The effective date of the amended certificate is November 2, 2000. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: August 16, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading, Company Affairs.

[FR Doc. 01–21050 Filed 8–20–01; 8:45 am]

BILLING CODE 3510–DR–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Participation in the Special Access Program

August 15, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs suspending participation in the Special Access Program.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

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 Committee for the Implementation of Textile Agreements (CITA) has determined that Oxford Industries, Inc. has violated the requirements for participation in the Special Access Program, and has suspended Oxford Industries, Inc. from participation in the Program for the two-month period August 27, 2001 through October 26, 2001.

Through the letter to the Commissioner of Customs published below, CITA directs the Commissioner to prohibit entry of products under the Special Access Program by or on behalf of Oxford Industries, Inc. during the period August 27, 2001 through October 26, 2001, and to prohibit entry by or on behalf of Oxford Industries, Inc. under the Program of products manufactured from fabric exported from the United States during that period.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 63 FR 16474, published on April 3, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 15, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has suspended Oxford Industries, Inc. from participation in the Special Access Program for the period August 27, 2001 through October 26, 2001. You are therefore directed to prohibit entry of products under the Special Access Program by or on behalf of Oxford Industries, Inc. during the period August 27, 2001 through October 26, 2001. You are further directed to prohibit entry of products under the Special Access Program by or on behalf of Oxford Industries, Inc. manufactured from fabric exported from the United States during the period August 27, 2001 through October 26, 2001.

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–20999 Filed 8–20–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Delay in the Implementation of 10 U.S.C. 2227; Electronic Submission and Processing of Claims for Contract Payments

AGENCY: Department of Defense (DoD).

ACTION: Notice of delay in the implementation of 10 U.S.C. 2277.

SUMMARY: This notice announces a delay in implementing 10 U.S.C. 2227, from June 30, 2001, until October 1, 2002. 10 U.S.C. 2227 requires contractors to submit, and DoD to process, electronically all claims for payment under DoD contracts.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Bemben, OUSD(AT&L)DP(EBI), Room 3C128, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone (703) 695–1097; facsimile (703) 695–7596.

SUPPLEMENTARY INFORMATION: The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) was enacted on October 30, 2000. Section 1008(a) of Public Law 106–398 added 10 U.S.C. 2227 which provides that the Secretary of Defense must require a contractor to submit, and DoD to process, electronically any claim for payment under a DoD contract. DoD must also transmit any supporting documentation electronically within DoD.

Section 1008(c) of Public Law 106–398 stipulates that—

1. The requirement to submit and process claims for payment electronically shall apply to contracts for which solicitations are issued after June 30, 2001;

2. The Secretary of Defense may delay the implementation date to a date after June 30, 2001, but no later than October 1, 2002, upon a finding that it is impracticable to implement 10 U.S.C. 2227 until that later date; and

3. If the Secretary of Defense makes a determination to delay implementation of 10 U.S.C. 2227 beyond June 30, 2001, a notice of the delay shall be published in the **Federal Register**.

The purpose of this notice is to comply with Section 1008(c)(2)(B) of Public Law 106–398 by announcing a delay in the implementation of 10 U.S.C. 2227, until October 1, 2002, because DoD has made a finding that it is impracticable to implement 10 U.S.C. 2227 prior to that date. Currently, DoD does not have the capability to receive all contractor claims for payment electronically, nor the capability to process all claims and supporting documentation electronically. In addition, DoD must publish changes to the Defense Federal Acquisition Regulation Supplement in order to implement the requirement for contractors to submit all claims for payment electronically. For these reasons, DoD has determined that it is impracticable to implement 10 U.S.C. 2227 prior to October 1, 2002.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–20948 Filed 8–20–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0022]

Federal Acquisition Regulation; Submission for OMB Review; Customs and Duties

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 (9000–0022).

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 customs and duties. 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 September 20, 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 (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

SUPPLEMENTARY INFORMATION:

A. Purpose

United States laws impose duties on foreign supplies imported into the customs territory of the United States. Certain exemptions from these duties are available to Government agencies. These exemptions are used whenever the anticipated savings outweigh the administrative costs associated with processing required documentation. When a Government contractor purchases foreign supplies, it must notify the contracting officer to determine whether the supplies should be duty-free. In addition, all shipping documents and containers must specify certain information to assure the duty-free entry of the supplies.

The contracting officer analyzes the information submitted by the contractor to determine whether or not supplies should enter the country duty-free. The information, the contracting officer's determination, and the U.S. Customs forms are placed in the contract file.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents: 1,330.

Responses Per Respondent: 10.
Total Responses: 13,300.
Hours Per Response: .5.
Total Burden Hours: 6,650.

Obtaining Copies of Proposals:

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0022, Customs and Duties, in all correspondence.

Dated: August 15, 2001.

Al Matera,

Director, Acquisition Policy Division

[FR Doc. 01–21066 Filed 8–20–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0025]

Federal Acquisition Regulation; Submission for OMB Review; Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding extension to an existing OMB clearance (9000–0025).

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 Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate. A request for public comments was published at 66 FR 33667, June 25, 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 September 20, 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 (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the Trade Agreements Act of 1979, unless specifically exempted by statute or regulation, agencies are required to evaluate offers over a certain dollar limitation not to supply an eligible product without regard to the restrictions of the Buy American or the Balance of Payments program. Offerors identify excluded end products on this certificate.

The contracting officer uses the information to identify the offered items which are domestic end products. Items having components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a designated country of the Act.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows:

Respondents: 1,140.
Responses Per Respondent: 10.
Total Responses: 11,400.
Hours Per Response: .167.
Total Burden Hours: 1,904.

Obtaining Copies Of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0025, Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate, in all correspondence.

Dated: August 15, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–21067 Filed 8–20–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Notice to alter systems of records.

SUMMARY: The Department of the Air Force is proposing to alter two systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on September 20, 2001 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, CIO–BIM/P, 1250 Air Force Pentagon, Washington, DC 20330–1250.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 588–0561 or DSN 425–0561.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 8, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F031 AF SP E

SYSTEM NAME:

Security Police Automated System (SPAS) (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Security Forces Management Information System (SFMIS)''.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Individuals involved in incidents and accidents occurring on Air Force (AF) installations, or reportable incidents occurring off base, including all active duty military personnel, reserve and guard; DoD civilians and other civilians; and retirees, who may be victims, witnesses, complainants, offenders, suspects, drivers; individuals who have had tickets issued on base, or had their license suspended or revoked; those persons barred from the installation; and persons possessing a licensed firearm.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Data on individuals (victims, witnesses, complainants, offenders, suspects, and drivers) involved in incidents may include, but is not limited to, name; Social Security Number; date of birth; place of birth; home address and phone; alias; race; ethnicity; sex; marital status; identifying marks (tattoos, scars, etc.); height; weight; eye and hair color; date, location, nature and details of the incident/offense to include whether alcohol, drugs and/or weapons were involved; driver's license information; tickets issued; vehicle information; suspension/revocation or barment records; whether bias against any particular group was involved; if offense involved sexual harassment; actions taken by military commanders (e.g., administrative and/or non-judicial measures, to include sanctions imposed); referral actions; court-martial results and punishments imposed; confinement information, to include location of correctional facility, gang/cult affiliation if applicable; and release/parole/clemency eligibility dates.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 8013, Secretary of the Air Force; DoD Directive 7730.47, Defense Incident Based Reporting System (DIBRS); Air Force Instruction 31–203, Security Forces Management Information System; 18 U.S.C. 922 note, Brady Handgun Violence Prevention Act; 28 U.S.C. 534 note, Uniform Federal Crime Reporting Act; 42 U.S.C. 10601 *et seq.,* Victims Rights and Restitution Act of 1990; and E.O. 9397 (SSN).''

PURPOSE(S):

Delete entry and replace with ''Serves as a repository of criminal and specified other non-criminal incidents used to satisfy statutory and regulatory reporting requirements, specifically to provide crime statistics required by the Department of Justice (DoJ) under the Uniform Federal Crime Reporting Act; to provide personal information required by the DoJ under the Brady Handgun Violence Prevention Act; and statistical information required by DoD under the Victim's Rights and Restitution Act; and to enhance AF's capability to analyze trends and to respond to executive, legislative, and oversight requests for statistical crime data relating to criminal and other high-interest incidents.

Security Forces commanders will use criminal/statistical data for local law enforcement purposes. The system generates reports for use by the Air Force Security Forces at all levels of command, provides security forces commanders the ability to view criminal statistics and apply whatever actions are necessary for enforcement.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Add to entry three new paragraphs ''To the Department of Justice for criminal reporting purposes and as required by the Brady Handgun Violence Prevention Act.

To courts and state, local, and foreign law enforcement agencies for valid judicial proceedings.

To victims and witnesses to comply with the Victim and Witness Assistance Program, the Sexual Assault Prevention and Response Program, and the Victims' Rights and Restitution Act of 1990.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Disposition pending. No records will be destroyed until authorization is granted from the National Archives and Records Administration. All records will be retained until approval is granted.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Reports and Analysis Program Manager, Police Services Branch, Headquarters Air Force Security Forces Center (HQ AFSFC/SFOP), 1720 Patrick Street, Lackland Air Force Base, TX 78236–5226.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Information obtained from individuals; DoD and civilian law enforcement authorities, security flight personnel, desk sergeants, operations personnel, staff judge advocates, courts-martial, correctional institutions and facilities, and administrative reports branch personnel.''

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with ''Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this exemption has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), and (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager.''

F031 AF SP E

SYSTEM NAME:

Security Forces Management Information System (SFMIS).

SYSTEM LOCATION:

DISA MegaCenter, Building 857, 401 E. Drive, Maxwell Air Force Base-Gunter Annex, AL 36114–3001; security forces units at all levels can access the system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in incidents and accidents occurring on Air Force (AF) installations, or reportable incidents occurring off base, including all active duty military personnel, reserve and guard; DoD civilians and other civilians; and retirees, who may be victims, witnesses, complainants, offenders, suspects, drivers; individuals who have had tickets issued on base, or had their license suspended or revoked; those persons barred from the installation; and persons possessing a licensed firearm.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data on individuals (victims, witnesses, complainants, offenders, suspects, and drivers) involved in incidents may include, but is not limited to, name; social security number; date of birth; place of birth; home address and phone; alias; race; ethnicity; sex; marital status; identifying marks (tattoos, scars, etc.); height; weight; eye and hair color; date, location, nature and details of the incident/offense to include whether alcohol, drugs and/or weapons were involved; driver's license information; tickets issued; vehicle information; suspension/revocation or barment records; whether bias against any particular group was involved; if offense involved sexual harassment; actions taken by military commanders (e.g., administrative and/or non-judicial measures, to include sanctions imposed); referral actions; court-martial results and punishments imposed; confinement information, to include location of correctional facility, gang/cult affiliation if applicable; and release/parole/clemency eligibility dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; DoDD 7730.47, Defense Incident Based Reporting System (DIBRS); Air Force Instruction 31–203, Security Forces Management Information System; 18 U.S.C. 922 note, Brady Handgun Violence Prevention Act; 28 U.S.C. 534 note, Uniform Federal Crime Reporting Act; 42 U.S.C. 10601 *et seq.,* Victims Rights and Restitution Act of 1990; and E.O. 9397 (SSN).

PURPOSE(S):

Serves as a repository of criminal and specified other non-criminal incidents used to satisfy statutory and regulatory reporting requirements, specifically to provide crime statistics required by the Department of Justice (DoJ) under the Uniform Federal Crime Reporting Act; to provide personal information required by the DoJ under the Brady Handgun Violence Prevention Act; and statistical information required by DoD under the Victim's Rights and Restitution Act; and to enhance AF's capability to analyze trends and to respond to executive, legislative, and oversight requests for statistical crime data relating to criminal and other high-interest incidents.

Security Forces commanders will use criminal/statistical data for local law enforcement purposes. The system generates reports for use by the Air Force Security Forces at all levels of command, provides security forces commanders the ability to view criminal statistics and apply whatever actions are necessary for enforcement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C., 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Justice for criminal reporting purposes and as required by the Brady Handgun Violence Prevention Act.

To courts and state, local, and foreign law enforcement agencies for valid judicial proceedings.

To victims and witnesses to comply with the Victim and Witness Assistance Program, the Sexual Assault prevention and Response Program, and the Victims' Rights and Restitution Act of 1990.

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computers and computer output products; some paper reports are generated.

RETRIEVABILITY:

Records are retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties, and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in computer storage devices which are protected by computer system software.

RETENTION AND DISPOSAL:

Disposition pending. No records will be destroyed until authorization is granted from the National Archives and Records Administration. All records will be retained until approval is granted.

SYSTEM MANAGER(S) AND ADDRESS:

Reports and Analysis Program Manager, Police Services Branch, Headquarters Air Force Security Forces Center (HQ AFSFC/SFOP), 1720 Patrick Street, Lackland Air Force Base, TX 78236–5226.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to or visit the

system manager at Headquarters Air Force Security Forces Center, Police Services Branch (HQ AFSFC/SFOP), 1720 Patrick Street, Lackland Air Force Base, TX 78236–5226. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

Individuals must identify themselves by full name, rank, home address, and Social Security Number and present a military ID, valid driver's license, or some other form of identification when appearing in person.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address written requests to or visit the system manager at Headquarters Air Force Security Forces Center, Police Services Branch, (HQ AFSFC/SFOP), 1720 Patrick Street, Lackland Air Force Base, TX 78236–5226.

Individuals must identity themselves by full name, rank, home address, and Social Security Number. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CONTESTING RECORDS PROCEDURES:

The Air Force rules for accessing records, for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from individuals; DoD and civilian law enforcement authorities, security flight personnel, desk sergeants, operations personnel, staff judge advocates, courts-martial, correctional institutions and facilities, and administrative reports branch personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this exemption has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager.

F044 AF SG Q

SYSTEM NAME:

Family Advocacy Program Record (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''All DoD beneficiaries who are entitled to care at Air Force medical facilities.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Records of suspected and established cases of family maltreatment, assessments and evaluations, investigative reports, check lists, family advocacy case management team minutes and reports, follow-up and evaluative reports, correspondence, and any other supportive data gathered relevant to individual family advocacy program cases. Records of family member exceptional medical and/or educational needs, medical summaries, individual educational program plans, general supportive documentation and correspondence. Secondary prevention records, assessment and survey instruments, service plans, and chronological data. Prevention contact activity files.''

* * * * *

PURPOSE:

Delete entry and replace with ''To document the activities of the Family Advocacy Program as they relate to allegations of and substantiated cases of family maltreatment, exceptional educational and/or medical needs of family members, prevention activities, assessment and survey activities; compile database for statistical analysis, tracking, and reporting; evaluate program effectiveness and conduct research.''

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Records are retrieved by the name and Social Security Number of the sponsor or the sponsor's spouse.''

* * * * *

F044 AF SG Q

SYSTEM NAME:

Family Advocacy Program Record.

SYSTEM LOCATION:

Headquarters United States Air Force, Office of the Surgeon General, 110 Luke Avenue, Room 400, Bolling Air Force Base, Washington, DC 20332–7050;

Headquarters, Air Force Medical Operations Agency, Family Advocacy Program, 2601 Doolittle Road, Building 801, Brooks Air Force Base, TX 78235–5254;

Major Command Surgeons' offices; Air Force hospitals, medical centers, and clinics. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD beneficiaries who are entitled to care at Air Force medical facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of suspected and established cases of family maltreatment, assessments and evaluations, investigative reports, check lists, family advocacy case management team minutes and reports, follow-up and evaluative reports, correspondence, and any other supportive data gathered relevant to individual family advocacy program cases. Records of family member exceptional medical and/or educational needs, medical summaries, individual educational program plans, general supportive documentation and correspondence. Secondary prevention records, assessment and survey instruments, service plans, and chronological data. Prevention contact activity files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Air Force Regulation 40–301, Air Force Family Advocacy Program, and E.O. 9397 (SSN).

PURPOSE(S):

To document the activities of the Family Advocacy Program as they relate to allegations of and substantiated cases of family maltreatment, exceptional educational and/or medical needs of family members, prevention activities, assessment and survey activities; compile database for statistical analysis, tracking, and reporting; evaluate program effectiveness and conduct research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To any member of the family in whose sponsor's name the file is maintained, in furtherance of treating any member of the family.

To the Attorney General of the United States or his authorized representatives in connection with litigation, or other matters under the direct jurisdiction of the Department of Justice.

To officials and employees of the Department of Veterans Affairs in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force.

To officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies and relating to the coordination of family advocacy programs, medical care and research concerning family maltreatment and neglect and exceptional educational or medical conditions.

To private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies.

To officials and employees of the National Research Council in cooperative studies of the National History of Disease; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force.

To officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs.

To the Federal, state or local governmental agencies when appropriate in the counseling and treatment of individuals or families with exceptional medical or educational needs or when involved in child abuse or neglect.

To authorized surveying bodies for professional certification and accreditations.

To the individual organization or government agency as necessary when required by Federal statute, E.O., or by treaty.

Drug/Alcohol and Family Advocacy information maintained in connection with Abuse Prevention Programs shall be disclosed only in accordance with applicable statutes.

The Department of the Air Force 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system, except as stipulated in the 'NOTE' below.

NOTE: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-2. This statute takes precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The DoD 'Blanket Routine Uses' do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, in computers, and on computer output products.

RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the sponsor or the sponsor's spouse.

SAFEGUARDS:

Records are maintained in various types of lockable filing equipment in monitored or controlled access lockable rooms or areas. Records are accessible only to authorized personnel that are properly screened and trained. Computer terminals are located in supervised areas with access controlled by password or other user-code systems. Records on computer storage devices are protected by computer system security software or physically stored in lockable filing equipment.

RETENTION AND DISPOSAL:

Maltreatment and Exceptional Family Member Program files will be retained in the installation Family Advocacy Office for 2 years after the individual case file is closed then transferred to National Personnel Records Center (NPRC), 111 Winnebago Street, St. Louis, MO 63118–2001 for an additional 20 years. Secondary Prevention Files will be retained in the office for 2 years after closure then destroyed by shredding. New Parent Support Program Contact Activity Files will be retained in the office for 2 years after the last staff contact then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Division Chief, Air Force Medical Operations Agency, Family Advocacy Division, 2601 Doolittle Road, Building 801, Brooks Air Force Base, TX 78235–5254, Major Command Surgeons, and Commanders of Air Force medical treatment facilities. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains information on them should address inquiries to the Family Advocacy Officer at the Air Force medical treatment facility where services were provided. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Requests should include the name and Social Security Number of the individual concerned.

RECORD ACCESS PROCEDURES:

Individuals seeking to access their records in this system should address requests to the Patient Affairs Officer at the Air Force medical treatment facility where services were provided. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Requests should include the name and Social Security Number of the individual concerned.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, reports from physicians and other medical department personnel; reports and information from other sources including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure

would reveal the identity of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be except pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 552 (b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b.

[FR Doc. 01–20751 Filed 8–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on September 20, 2001 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 8, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0190–45 DAMO

SYSTEM NAME:

Offense Reporting System (ORS) (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Decentralized to Army installations which created the Military Police Report. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices. The official copy of the military police report and other law enforcement related documents may be sent to the U.S. Army Crime Records Center, 6010 6th Street, Fort Belvoir, VA 22060–5585. Automated records of the Military Police Report are maintained in the Offense Reporting System (ORS) ORS–2 program managed by the Deputy Chief of Staff for Operations and Plans, 400 Army Pentagon, Washington, DC 20310–0400.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Criminal information or investigative files involving the Army which may consist of military police reports or similar reports containing investigative data, supporting or sworn statements, affidavits, provisional passes, receipts for prisoners or detained persons, reports of action taken, and disposition of cases.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Secretary of the Army; 18 U.S.C. 44, Brady Handgun Violence Prevention Act; 28 U.S.C. 534, Uniform Crime Reporting Act; 42 U.S.C. 10606, Victims Rights and Restitution Act of 1990; DoD Directive 10310.1, Victim and Witness Assistance; Army Regulation 190–45, Military Police Law Enforcement Reporting and E.O. 9397 (SSN).''

PURPOSE(S):

Add to the third paragraph ''; and (3) to satisfy statutory reporting requirements.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph ''To victims and witnesses of a crime for purposes of providing information, consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense.''

STORAGE:

Delete entry and replace with ''Paper records in file holders and electronic storage media.''

SAFEGUARDS:

Delete entry and replace with ''Access to information is controlled; limited to authorized personnel having official need therefor. Terminals are under supervision control from unauthorized use. Access to information is also controlled by a system of assigned passwords for authorized users of terminals.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Criminal investigations data/information is sent to the Crime Records Center where it is retained 40 years after date of final report, all other data/information in the file is destroyed after 5 years.''

* * * * *

A0190–45 DAMO

SYSTEM NAME:

Offense Reporting System (ORS).

SYSTEM LOCATION:

Decentralized to Army installations which created the Military Police Report. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices. The official copy of the military police report and other law enforcement copy of the military policy report and other law enforcement related documents may be sent to the U.S. Army Crime Records Center, 6010 6th Street, Fort Belvoir, VA 22060–5585. Automated records of the Military Police Report are maintained in the Offense Reporting System (ORS) ORS–2 program managed by the Deputy Chief of Staff for Operations and Plans, 400 Army Pentagon, Washington, DC 20310–0400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who is the subject, victim, complainant, witness, or suspect in a criminal, civil, or traffic offense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal information or investigative files involving the Army which may consist of military police reports or similar reports containing investigative data, supporting or sworn statements, affidavits, provisional passes, receipts for prisoners of detained persons, reports of action taken, and disposition of cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 18 U.S.C. 44, Brady Handgun Violence Prevention Act; 28 U.S.C. 534, Uniform Crime Reporting Act; 42 U.S.C. 10606, Victims Rights and Restitution Act of 1990; DoD Directive 10310.1, Victim and Witness Assistance; Army Regulation 190–45, Military Police Law Enforcement Reporting and E.O. 9397 (SSN).

PURPOSE(S):

To provide detailed information necessary for Army officials and commanders to discharge their responsibilities for maintaining discipline, law, and order through investigation of complaints and incidents and possible criminal prosecution, civil court action, or regulatory order.

This system contains information which may be used, as permitted by the Privacy Act and other pertinent laws, for employee personnel actions and determinations concerning, but not limited to security clearances, recruitment, retention, and placement.

Statistical data are derived from individual report and stored in automated media at major Army commands and Headquarters, Department of the Army, for the purposes of (1) Developing crime trends by major categories (*e.g.*, crimes against persons, drug crimes, crimes against property, fraud crimes, and other offenses); (2) developing law enforcement and crime prevention programs to reduce or deter crime within Army communities; and (3) to satisfy statutory reporting requirements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to federal, state, and local (including Foreign Government) agencies for investigation and prosecution when cases are either within their jurisdiction or when concurrent jurisdiction applies. These include: Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Customs Service, Bureau of Alcohol, Tobacco and Firearms, U.S. District Courts, U.S. Magistrates.

To victims and witnesses of a crime for purposes of providing information, consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense.

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's name, date of birth, Social Security Number, and case number.

SAFEGUARDS:

Access to information is controlled; limited to authorized personnel having official need therefor. Terminals are under supervision control from unauthorized use. Access to information is also controlled by a system of assigned passwords for authorized users of terminals.

RETENTION AND DISPOSAL:

Criminal investigations data/information is sent to the Crime Records Center where it is retained 40 years after date of final report, all other data/information in the file is destroyed after 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Operations and Plans, 400 Army Pentagon, Washington, DC 20310–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Crime Records Center, 6010 6th Street, Fort Belvoir, VA 22060–5585.

Individual should provide the full name, Social Security Number, date and place of the incident.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Crime Records Center, 6010 6th Street, Fort Belvoir, VA 22060–5585.

Individual should provide the full name, Social Security Number, date and place of the incident.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; witnesses; victims; Military Police and/or U.S. Army Criminal Investigation Command special agents; informants; investigative and law enforcement persons of Federal, state, local and foreign government agencies; any source that may supply pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 01–20749 Filed 8–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration adds a routine use to the system of records, A0608–18 DASG, Army Family Advocacy Program Files.

DATES: This proposed action will be effective without further notice on (insert date thirty days from date published in the FR) unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification

Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 8, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0609–18 DASG

SYSTEM NAME:

Family Advocacy Case Management Files (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with''Army Family Advocacy Program (FAP) Files.''

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Eligible military members and their family, and DoD civilians who participate in the Family Advocacy Program (FAP).''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Family Advocacy Case Review Committee (CRC) records of established cases of child/spouse abuse or neglect to include those occurring in Army sanctioned or operated activities.

Files may contain extracts of law enforcement investigative reports, correspondence, Case Review Committee reports, treatment plans and documentation of treatment, follow-up and evaluative reports, supportive data relevant to individual family advocacy CRC files, summary statistical data reports and similar relevant files.''

* * * * *

PURPOSE(S):

Delete entry and replace with ''To maintain records that identify, monitor, track and provide treatment to alleged offenders, eligible victims and their families of substantiated spouse/child abuse, and neglect. To manage prevention programs to reduce the incidence of abuse throughout the Army military communities. To perform research studies and compile statistical data.''

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Add to entry ''To victims and witnesses of a crime for purposes of providing information consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense.''

STORAGE:

Delete entry and replace with ''Paper records in file folders and on electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''By the sponsor's Social Security Number of an abused victim.''

* * * * *

A0608–18 DASG

SYSTEM NAME:

Army Family Advocacy Program Files.

SYSTEM LOCATION:

Primary location: Director, U.S. Army Patient Administration Systems and Biostatistics Activity, ATTN: MCHS–ISF, 1216 Stanley Road, Fort Sam Houston, TX 778234–5053. Secondary location: Any Army medical treatment facility which supports the Family Advocacy Program (FAP). Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eligible military members and their family, and DoD civilians who participate in the Family Advocacy Program (FAP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Family Advocacy Case Review Committee (CRC) records of established cases of child/spouse abuse or neglect to include those occurring in Army sanctioned or operated activities.

Files may contain extracts of law enforcement investigative reports, correspondence, Case Review Committee reports, treatment plans and documentation of treatment, follow-up and evaluative reports, supportive data relevant to individual family advocacy Case Review Committee files, summary statistical data reports and similar relevant files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 42 U.S.C. 10606 et seq., Victims' Rights, as implemented by Department of Defense Instruction 1030.2, Victim and Witness Assistance Program; Army Regulation 608–18, The Family Advocacy Program; and E.O. 9397 (SSN).

PURPOSES(S):

To maintain records that identify, monitor, track and provide treatment to alleged offenders, eligible victims and their families of substantiated spouse/child abuse, and neglect. To manage prevention programs to reduce the incidence of abuse throughout the Army military communities. To perform research studies and compile statistical data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to departments and agencies of the Executive Branch of government in performance of their official duties relating to coordination of family advocacy programs, medical care and research concerning child abuse and neglect, and spouse abuse.

The Attorney General of the United States or his authorized representatives in connection with litigation or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

To Federal, state, or local governmental agencies when it is deemed appropriate to use civilian resources in counseling and treating individuals or families involved in child abuse or neglect or spouse abuse; or when appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement; or when a state, county, or municipal child

protective service agency inquires about a prior record of substantiated abuse for the purpose of investigating a suspected case of abuse.

To the National Academy of Sciences, private organizations and individuals for health research in the interest of the Federal government and the public and authorized surveying bodies for professional certification and accreditation such as Joint Commission on the Accreditation of Health Care Organizations.

To victims and witnesses of a crime for purposes of providing information consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on electronic storage media.

RETRIEVABILITY:

By the sponsor's Social Security Number of an abused victim.

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specified monitored or controlled areas. Public access is not permitted. Records are accessible only to authorized personnel who are properly screened and trained, and have an official need-to-know. Computer terminals are located in supervised areas with access controlled by password or other user code system.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration has approved the retention and disposal of these records, treat as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Director, U.S. Army Community Family support, 4700 King Street, Alexandria, VA 22302–4420.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the local Patient Administration Division Office; to the commander of the medical center or hospital where treatment was received; or to the Director, Patient Administration Systems and Biostatistics Activity, 126 Stanley Road, Fort Sam Houston, TX 78234–5053. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

For verification purposes, the individual should provide the full name, Social Security Number of the patient's sponsor, and current address, date and location of treatment, and any details that will assist in locating the record, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this record system should address written inquiries to the local Patient Administration Division Office; to the commander of the medical center or hospital where treatment was received; or to the Director, Patient Administration Systems and Biostatistics Activity, 126 Stanley Road, Fort Sam Houston, TX 78234–5053. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

For verification purposes, the individual should provide the full name, Social Security Number of the patient's sponsor, and current address, date and location of treatment, and any details that will assist in locating the record, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations by the concerned individual are published in the Department of the Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, educational institutions, medical institutions, police and investigating officers, state and local government agencies, witnesses, and records and reports prepared on behalf of the Army by boards, committee, panels, auditors, etc. Information may also derive from interviews, personal history statements, and observations of behavior by professional persons (i.e., social workers, physicians, including psychiatrists and pediatricians, psychologists, nurses, and lawyers).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 01–20750 Filed 8–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management

Site Recommendation Consideration Hearings and End of Public Comment Period; Yucca Mountain Preliminary Site Suitability Evaluation

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice of public hearings and public comment period closure; document availability.

SUMMARY: The Department of Energy (the Department) announces the scheduling of public hearings on the possible recommendation by the Secretary of Energy to the President of the Yucca Mountain Site in Nevada for development as a spent nuclear fuel and high-level nuclear waste geologic repository, pursuant to Section 114(a)(1) of the Nuclear Waste Policy Act of 1982 (NWPA), as amended. The Department also announces the availability of the Yucca Mountain Preliminary Site Suitability Evaluation (PSSE) for the Yucca Mountain site in Nevada and the date for the closure of the public comment period on the Secretary's consideration of a possible site recommendation.

DATES: Public Hearings are scheduled for the following dates, locations and times:

September 5, 2001: Suncoast Hotel and Casino, 9090 Alta Drive, Las Vegas, Nevada, 89144, 5:00 pm—9:00 pm—

Poster Session; 6:00 pm—9:00 pm—Hearing.

September 12, 2001: Longstreet Inn and Casino, Highway 373, Armagosa Valley, Nevada 89020; 5:00 pm—9:00 pm—Poster Session; 6:00 pm—9:00 pm—Hearing.

September 13, 2001: Bob Ruud Community Center, 150 Highway North #160, Pahrump, Nevada 89048, 5:00 pm–9:00 pm—Poster Session; 6:00 pm–9:00 pm—Hearing.

The public also may submit written comments on the Secretary's consideration of Yucca Mountain for a potential site recommendation to the President. Written comments will be accepted for consideration if received by September 20, 2001. Comments received after September 20, 2001, will be considered to the extent practicable.

ADDRESSES: Written comments should be addressed to Carol Hanlon, U.S. Department of Energy, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307, or provided by electronic mail to YMP_SR@ymp.gov. Written comments should be identified on the outside of the envelope, and on the comments themselves, with the designation: ''Possible Site Recommendation for Yucca Mountain.'' Comments can also be submitted by facsimile to 1–800–967–0739.

Copies of any written comments, and documents referenced in this notice may be inspected and photocopied in the Department's Freedom of Information Act Reading Room located at the Yucca Mountain Science Center, 4101B Meadows Lane, Las Vegas, Nevada, (702) 295–1312, between the hours of 10:00 a.m. and 6:00 p.m. Tuesday through Friday, and 10:00 a.m. and 4:00 p.m. on Saturday, except for Federal holidays. Documents referenced in this notice may also be found on the Internet at *http://www.ymp.gov* and at *http://www.rw.doe.gov*. For more information concerning public participation, please refer to the Opportunity for Public Comment section of this notice.

Copies of the PSSE and other supporting technical documents may be requested by telephone (1–800–967–3477) or over the Internet via the Yucca Mountain Project website using the document ordering form at *http://www.ymp.gov*.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307, 1–800–967–3477.

SUPPLEMENTARY INFORMATION:

I. Background

On May 7, 2001, the Department announced in the **Federal Register** (66 FR 23013–23016) the initiation of a public comment period on the Secretary's consideration of the Yucca Mountain site for recommendation as a spent nuclear fuel and high-level waste repository. In conjunction with the initiation of the comment period, the Department issued a report, the Yucca Mountain Science and Engineering Report (YMS&ER), summarizing the scientific and technical information compiled by the Department to date outlining the preliminary design and performance attributes of a potential geologic repository at the Yucca Mountain site. This report was provided to inform the public and facilitate public comment and review on the technical and scientific information and analyses forming the basis for the Department's consideration of a possible site recommendation.

With this notice, the Department announces the issuance of another report, the PSSE, that also is intended to inform the public and facilitate public review and comment on a possible site recommendation. The PSSE contains a preliminary evaluation of the suitability of the Yucca Mountain site for development as a geologic repository based on the Department's proposed site suitability regulations, to be codified as 10 CFR part 963. The preliminary evaluation described in the PSSE is based on information contained in the YMS&ER, supplemented by the most recent available technical information.

II. Opportunity for Public Comment

A. Participation in Comment Process

Interested persons are invited to participate in the comment process by submitting written data, views, or comments with respect to the possible recommendation of the Yucca Mountain site. The Department encourages the maximum level of public participation possible in this process. Individuals, coalitions, states or other government entities, and others are urged to submit written comments on technical, policy or other issues related to the possible recommendation of the Yucca Mountain site.

B. Written Comment Procedures

The Department invites the public to comment on a possible recommendation for the Yucca Mountain site. Written comments should be identified on the outside of the envelope, and on the comments themselves, with the designation: ''Possible Site Recommendation for Yucca Mountain.'' In the event any person wishing to submit written comments cannot provide them directly, alternative arrangements can be made by calling 1–800–967–3477. All comments postmarked by the closing date of the public comment period will be considered by the Department before a decision is made on the potential site recommendation. Comments postmarked after the closing date will be considered to the extent practicable. All comments submitted will be available for examination at the Yucca Mountain Science Center in Las Vegas, Nevada. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data that is believed to be confidential, and which may be exempt by law from public disclosure, should submit one complete copy, as well as two copies from which the information considered confidential has been deleted. The Department of Energy will make its own determination of any such claim and treat it accordingly.

C. Public Hearings

At the beginning of this notice, the Department has indicated where and when there will be public hearings for the site consideration process. As required by the NWPA, the Department will hold these hearings in the vicinity of Yucca Mountain to inform and receive comments from those in the vicinity of the site. These hearings will not be trial-type evidentiary hearings that require a lawyer. They will be informal, and the Department intends to use a facilitator in an effort to ensure they are fair and productive.

Issued in Washington, DC on August 16, 2001.

Lake Barrett,

Acting Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 01–21088 Filed 8–20–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–2138–000]

Capital Energy, Inc.; Notice of Issuance of Order

August 15, 2001.

Capital Energy, Inc. (Capital Energy) submitted for filing a rate schedule under which Capital Energy will engage in wholesale electric power and energy transactions at market-based rates.

Capital Energy also requested waiver of various Commission regulations. In particular, Capital Energy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Capital Energy.

On July 16, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Capital Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Capital Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Capital Energy and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Capital Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 14, 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 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. 01–20963 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–2151–000]

Cold Springs Creek, LLC; Notice of Issuance of Order

August 15, 2001.

Cold Springs Creek, LLC (Cold Springs) submitted for filing a rate schedule under which Cold Springs will engage in wholesale electric power and energy transactions at market-based rates. Cold Springs also requested waiver of various Commission regulations. In particular, Cold Springs requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Cold Springs.

On July 20, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Cold Springs should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Cold Springs is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Cold Springs and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Cold Springs' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 14, 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 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. 01–20964 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–506–000]

Crossroads Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 15, 2001.

Take notice that on August 9, 2001, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revise tariff sheets, with an effective date of September 8, 2001.

Crossroads states that the purpose of this filing is to revise the tariff of Crossroads to conform it more closely to the tariff format of Columbia Gas and thereby to facilitate the standardization of business practices and the ability of the pipelines to utilize common computer systems to the maximum extent possible.

As a result of the merger between NiSource, Inc. (NiSource) and the Columbia Energy Group (CEG) which merger was approved by the Commission on July 26, 2000, Crossroads, indirectly and wholly owned by NiSource, became affiliated with Columbia Gas Transmission Corporation (Columbia Gas) and Columbia Gulf Transmission Company (Columbia Gulf). Upon completion of the merger, the day-to-day tariff and customer service operations and administration of Crossroads was assigned to personnel performing similar functions for Columbia Gas.

Crossroads states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 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. 01–20951 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–333–001]

Crossroads Pipeline Company; Notice of Compliance Filing

August 15, 2001.

Take notice that on August 9, 2001, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revised pro forma tariff sheets, listed in Appendix A to the filing, in compliance with Order Nos. 637 and 637–A.

Crossroads states that the filing is made to revise pro forma tariff sheets filed in Docket No. RP00–333–000 on June 15, 2000 in compliance with Order No. 637 et. al. Contemporaneous with this filing, Crossroads is filing a new tariff volume, First Revised Volume No. 1 superseding Original Volume No. 1, necessitating a need to revise Crossroad's June 15, 2000 filing in Docket No. RP00–333.

Crossroads states that copies of its filing have been mailed to all firm customers, interruptible customers, affected state commissions, and 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. 01–20953 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–2071–000]

Desert Power, L.P.; Notice of Issuance of Order

August 15, 2001.

Desert Power, L.P. (Desert Power) submitted for filing a rate schedule under which Desert Power will engage in wholesale electric power and energy transactions at market-based rates. Desert Power also requested waiver of various Commission regulations. In particular, Desert Power requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Desert Power.

On July 16, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Desert Power should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Desert Power is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Desert Power and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Desert Power's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 14, 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 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. 01–20966 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–2059–000]

Entrust Energy, L.L.C.; Notice of Issuance of Order

August 15, 2001.

Entrust Energy, L.L.C. (Entrust) submitted for filing a rate schedule under which Entrust will engage in wholesale electric power and energy transactions at market-based rates. Entrust also requested waiver of various Commission regulations. In particular, Entrust requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Entrust.

On July 13, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications,

Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Entrust should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Entrust is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Entrust and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Entrust's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 14, 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 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. 01–20967 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1972–000]

Gray County Wind Energy, LLC; Notice of Issuance of Order

August 15, 2001.

Gray County Wind Energy, LLC (Gray County) submitted for filing a rate schedule under which Gray County will engage in wholesale electric power and energy transactions at market-based rates. Gray County also requested waiver of various Commission regulations. In particular, Gray County requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Gray County.

On July 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Gray County should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Gray County is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Gray County and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Gray County's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 14, 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 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. 01–20968 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–274–006]

Kern River Gas Transmission Company; Notice of Annual Threshold Report

August 15, 2001.

Take notice that on August 8, 2001, Kern River Gas Transmission Company (Kern River) tendered for filing its Annual Threshold Report.

Kern River states that the purpose of this filing is to comply with the terms of its Settlement in this proceeding and with its tariff requirement to file an Annual Threshold Report, identifying the eligible firm shippers receiving credits and the amounts received.

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, 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 on or before August 22, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–20949 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–342–001]

MIGC, Inc.; Notice of Compliance Filing

August 15, 2001.

Take notice that on August 10, 2001, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following pro forma tariff sheets, to become effective upon further order of the Commission.

Fifth Revised Sheet No. 65
Third Revised Sheet No. 83
Fourth Revised Sheet No. 84

MIGC asserts that the purpose of this filing is to comply with the Commission's order issued July 11, 2001, in Docket No. RP00–342–000, to file actual tariff sheets reflecting certain revisions to its June 15, 2000 filing in compliance with Order No. 637.

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. 01–20962 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–150–000, et al.]

Millennium Pipeline Company, L.P.; Notice of Meeting

August 15, 2001.

The Federal Energy Regulatory Commission (FERC) will conduct a comment meeting on environmental issues for the proposed Millennium Pipeline Project filed in the above-referenced docket.

The meeting will be held on September 4, 2001 at 7 p.m. at the following location: Thorton Elementary School, 121 South 6th Street, Mount Vernon, NY 10550.

Additional information may be obtained from the Commission's Office of External Affairs, at (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 01–20956 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–218–002]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

August 15, 2001.

Take notice that on July 13, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing a report on Rate Schedule IBS in compliance with the Commission's April 12, 2000 order in Docket No. RP00–218–000. Natural's filing is a report of the first twelve months ending April 30, 2001, during which Rate Schedule IBS was in effect.

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 August 22, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–20955 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1526–000, ER01–1526–001]

Newington Energy, LLC; Notice of Issuance of Order

August 15, 2001.

Newington Energy, LLC (Newington) submitted for filing a rate schedule under which Newington will engage in wholesale electric power and energy transactions at market-based rates. Newington also requested waiver of various Commission regulations. In particular, Newington requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Newington.

On July 18, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Newington should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Newington is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Newington and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Newington's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 14, 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 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. 01–20965 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1994–000]

Snapping Shoals Electric Membership Corp.; Notice of Issuance of Order

August 15, 2001.

Snapping Shoals Electric Membership Corp. (SSEMC) submitted for filing a rate schedule under which SSEMC will engage in wholesale electric power and energy transactions at market-based rates. SSEMC also requested waiver of various Commission regulations. In particular, SSEMC requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by SSEMC.

On July 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by SSEMC should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, SSEMC is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of SSEMC and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of SSEMC's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 14, 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. 01–20969 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1993–000]

Timber Energy Resources, Inc.; Notice of Issuance of Order

August 15, 2001.

Timber Energy Resources, Inc. (Timber Energy) submitted for filing a rate schedule under which Timber Energy will engage in wholesale electric power and energy transactions at market-based rates. Timber Energy also requested waiver of various Commission regulations. In particular, Timber Energy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Timber Energy.

On July 5, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Timber Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Timber Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Timber Energy and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Timber Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 14, 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 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. 01–20970 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–478–001]

TransColorado Gas Transmission Company; Notice of Compliance Filing

August 15, 2001.

Take notice that on August 9, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised First Revised Sheet No. 247B, to be effective August 1, 2001.

TransColorado states that the filing is being made in compliance with the Commission's July 25, 2001, order in Docket No. RP01–478–000.

On July 25, 2001, the Commission issued an order in Docket No. RP01–478–000 approving proposed revisions to Section 23 (Negotiated Rates) of TransColorado's General Terms and Conditions and accepting tariff sheets to be effective August 1, 2001. However, the July 25th order directed TransColorado to modify its fuel tracking mechanism, as the Commission required in Columbia, to detail how TransColorado will reflect negotiated fuel.

TransColorado states that in compliance with the July 25th order it is adding the following language to Section 12.9 (Fuel Gas Reimbursement) of its General Terms and Conditions: ''If, pursuant to Section 23.11 of the General Terms and Conditions, TransColorado negotiates a fuel retention rate different than the maximum rate level, TransColorado will credit the full recourse rate fuel retention amounts to the appropriate fuel retention accounts.''

TransColorado states that a copy of this filing has been served upon TransColorado's customers, the Colorado Public Utilities Commission and 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. 01–20954 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–505–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

August 15, 2001.

Take notice that on August 9, 2001 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Twenty-First Revised Sheet No. 28, to be effective August 1, 2001.

Transco states that the purpose of the instant filing is track rate changes attributable to storage service purchased from Texas Eastern Transmission Corporation under its Rate Schedule X–28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S–2. The filing is being made pursuant to tracking provisions under Section 26 of the General Terms and Conditions of Transco's Third Revised Volume No. 1 Tariff. Transco states that included in Appendix B attached to the filing is the explanation and details regarding the computation of the Rate Schedule S–2 rate changes.

Transco states that copies of the filing are being mailed to each of its S–2 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–20952 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–507–000]

Transwestern Pipeline Company; Notice of Tariff Filing

August 15, 2001.

Take notice that on August 10, 2001, Transwestern Pipeline Company (Transwestern) tendered for filing in its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective August 10, 2001:

Seventh Revised Sheet No. 72
Second Revised Sheet No. 72A
Third Revised Sheet No. 72B

Transwestern states that the reason for this filing is to comply with the Commission's Order dated July 26, 2001 in Docket Nos. RP97–288–009 et al. Pursuant to the July 26 order, Transwestern has amended both its Tariff and web site postings to provide for specific identification of capacity that may be available only for periods of less than one month in length.

Transwestern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the 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. 01–20950 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2266–001, et al.]

Puget Sound Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 15, 2001.

Take notice that the following filings have been made with the Commission:

1. Puget Sound Energy, Inc.

[Docket No. ER01–2266–001]

Take notice that Puget Sound Energy, Inc., (Puget) on July 18, 2001, tendered for filing pursuant to 18 CFR Part 35, and order No. 614, 65 Fed. Reg. 18221, the Agreement to Terminate Wholesale Electric Service Agreement, Network Integration Transmission Service Agreement, and Network Operating Agreement between Puget, and the Port of Seattle (Port). These agreements were originally submitted on June 7, 2001 and were accepted for filing to become effective June 18, 2001. By Order dated June 18, 2001, the Commission required Puget to submit the agreements with designations conforming to Order No. 614. This submittal is intended to comply with that requirement.

Comment date: September 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER01–2810–000]

Take notice that on August 9, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing revisions to its Reliability Must-Run Service Agreement (RMR Agreement) with the California Independent System Operator Corporation (ISO) for Hunters Point Power Plant (Hunters Point), PG&E First Revised Rate Schedule FERC No. 209. This filing revises portions of First Revised Rate Schedule No. 209 to adjust the performance characteristics and applicable rates to reflect a change in status of Hunters Point Units 2 and 3 from electric generating units to synchronous condensers. These changes are expressly authorized under the RMR Agreement and were approved in advance by the ISO under that contract.

Copies of PG&E's filing have been served upon the ISO, the California Electricity Oversight Board, and the California Public Utilities Commission.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Central Power and Light Company

[Docket No. ER01–2575–002]

Take notice that on August 7, 2001, Central Power and Light Company (CPL) resubmitted for filing an Interconnection Agreement, dated September 2, 1998, between CPL and South Texas Electric Cooperative, Inc. (STEC) amended to correct certain designation and pagination errors. CPL served copies of the filing on South Texas Electric Cooperative, Inc. and the Public Utility Commission of Texas.

CPL seeks to correct clerical omissions contained in its previous filing of the amendments to this agreement on July 25, 2001. This filing now contains inadvertently omitted ''Original Sheet'' numbers on the one-line diagrams attached to Facility Schedules 17, 19, 20 and 21 and the reference of Second Revised Volume that are necessary to bring that filing into compliance with the Commission's Rules of Practice and Procedure and Order No. 614. No changes have been made to the Interconnection Agreement nor the amendments to that agreement since the time they were executed by CPL and STEC. CPL seeks no change in the waivers of notice requirements requested in that filing.

Comment date: August 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Michigan Electric Transmission Company

[Docket No. ER01–2811–000]

Take notice that on August 9, 2001, Michigan Electric Transmission Company (Michigan Transco) tendered for filing executed Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service with EnergyUSA-TPC Corp. (Customer) pursuant to the Joint Open Access Transmission Service Tariff filed on February 22, 2001 by Michigan Transco and International Transmission Company (ITC). Michigan Transco is requesting an effective date of July 26, 2001 for the Agreements.

Copies of the filed agreements were served upon the Michigan Public Service Commission, ITC, and the Customer.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Michigan Electric Transmission Company

[Docket No. ER01–2812–000]

Take notice that on August 9, 2001 Michigan Electric Transmission Company (Michigan Transco) tendered for filing a Letter Agreement Between Mirant Zeeland, L.L.C. (Customer) and Michigan Transco, dated July 19, 2001, (Agreement). Under the Agreement, Michigan Transco is to perform certain preliminary activities associated with providing an electrical connection between Phase II of Customer's generation project and Michigan Transco's transmission system. Michigan Transco requested that the Agreement be allowed to become effective July 19, 2001.

Copies of the filing were served upon Customer and the Michigan Public Service Commission.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Maine Public Service Company

[Docket No. ER01–2813–000]

Take notice that on August 9, 2001, Maine Public Service Company (Maine Public) filed an executed Service Agreement for Firm Point-To-Point Transmission Service under Maine Public's open access transmission tariff with Constellation Power Source, Inc.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Citizens Energy Corporation

[Docket No. ER01–2814–000]

Take notice that on August 9, 2001, Citizens Energy Corporation (Citizens) applied to the Commission for blanket authorization to make wholesale electric power and energy sales at market-based rates, and submitted for filing a rate schedule proposed to become effective on October 8, 2001 under which Citizens proposes to engage in such sales. Citizens also requested the blanket authorizations and waivers of Commission Regulations normally

accorded sellers permitted to sell at market-based rates.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Tampa Electric Company

[Docket No. ER01–2815–000]

Take notice that on August 9, 2001, Tampa Electric Company (Tampa Electric) filed a notice of termination of its Contract for the Purchase and Sale of Power and Energy with El Paso Merchant Energy, L.P. (El Paso). Copies of the filing have been served on El Paso and the Florida Public Service Commission.

Tampa Electric proposes that the termination be made effective on July 30, 2001, and therefore requests waiver of the Commission's notice requirement.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Virginia Electric and Power Company

[Docket No. ER01–2816–000]

Take notice that Virginia Electric and Power Company (the Company) on August 9, 2001, tendered for filing a service agreement for Constellation Power Source, Inc. (Customer) under the Company's short-form market-based rate tariff, FERC Electric Tariff, Original Volume No. 6 (the Tariff). The Company requests that the Commission make the service agreement effective on July 11, 2001.

A copy of the filing was served upon the Customer.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Progress Energy on behalf of Florida Power Corporation

[Docket No. ER01–2817–000]

Take notice that on August 9, 2001, Florida Power Corporation (FPC) tendered for filing Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with Ameren Energy, Inc. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of FPC. A copy of the filing was served upon the Florida Public Service Commission.

FPC is requesting an effective date of August 8, 2001 for the Service Agreements.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Indigo Generation LLC, Larkspur Energy LLC

[Docket No. ER01–2818–000]

Take notice that on August 9, 2001, Larkspur Energy LLC (Larkspur) and Indigo Generation LLC (Indigo) tendered for filing under Section 205 of the Federal Power Act umbrella service agreements entered into pursuant to their respective FERC Electric Tariffs for market-based rates. Larkspur and Indigo request an effective date for the umbrella service agreements of July 10, 2001.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. PSEG Energy Resources & Trade LLC

[Docket No. ER01–2825–000]

Take notice that PSEG Energy Resources & Trade LLC (PSEG) of Newark, New Jersey on August 9, 2001, tendered for filing an agreement for the sale of capacity and energy to Bethlehem Steel Corporation (Bethlehem) pursuant to the PSEG Wholesale Power Market-Based Sales Tariff, presently on file with the Commission. Copies of the filing have been served upon Bethlehem and the New Jersey Board of Public Utilities.

PSEG further requests waiver of the Commission's regulations such that the agreement can be made effective as of July 9, 2001.

Comment date: August 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Pool

[Docket No. ER01–2836–000]

Take notice that on August 6, 2001, the New England Power Pool (NEPOOL) Participants Committee filed additional changes to Market Rule & Procedure 17 to conform the existing provisions of Market Rule 17 to the revised bidding and compensation regime of three-part bidding and Net Commitment Period Compensation. A July 1, 2001 effective date has been requested.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: August 27, 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. 01–21051 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2197–047 North Carolina]

Alcoa Power Generating, Inc.; Notice of Availability of Environmental Assessment

August 15, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application for a marina, boat ramp, and two boat docks on High Rock reservoir and has prepared an environmental assessment (EA) for these facilities. High Rock reservoir is part of the Yadkin Hydroelectric Project on the Yadkin/Pee Dee River in Montgomery, Stanly, Davidson, Rowan, and Davie Counties, North Carolina. The proposed facilities do not occupy any federal or tribal lands.

The EA contains the staff's analysis of the potential environmental impacts of the proposed facilities and concludes that approving the application would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA 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).

For further information, contact Steve Hocking at (202) 219–2656.

David P. Boergers,

Secretary.

[FR Doc. 01–20960 Filed 8–20–01; 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, Protests, and Comments

August 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12068–000.

c. *Date filed:* July 6, 2001.

d. *Applicant:* CPS Products, Incorporated.

e. *Name of Project:* Upper Bear Creek.

f. *Location:* On the North Fork Bear Creek, in Skagit County, Washington. Would utilize no federal dam or facilities. The existing dam and facilities are owned by Glacier Northwest, Inc.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas R. Childs, CPS Products, Inc., P.O. Box 1691, Bellingham, WA 98227–1691, (360) 758–2018.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

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, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under ''e-filing'' link. Please include the project number (P–12068–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) An existing 100-foot-long, 6-foot-high concrete and earth diversion dam, (2) an existing impoundment having a surface area of 1 acre with negligible storage and normal water elevation of 987 feet msl, (3) a proposed 400-foot-long, 36-inch-diameter steel penstock, (4) an existing powerhouse containing one proposed generating unit having an installed capacity of 300 kW, (5) a proposed 350-foot-long, 12.5 kV transmission line, and (6) appurtenant facilities.

The project would have an annual generation of 1,200 MWh that would be sold to a local utility.

l. A copy of this filing is on file with the Commission and is 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. 01–20957 Filed 8–20–01; 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, Protests, and Comments

August 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.*: 12066–000.

c. *Date filed:* July 2, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Painted Rocks Dam.

f. *Location:* On the West Fork Bitterroot River, in Ravalli County, Montana. Would utilize no federal dam or facilities. The Painted Rocks Dam is owned 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., PO Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

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, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under ''e-filing'' link. Please include the project number (P–12066–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) An existing 800-foot-long, 142-foot-high earthfill dam, (2) an existing impoundment having a surface area of 811 acres with a storage capacity of 32,362 acre-feet and normal water elevation of 4,726 feet msl, (3) a proposed 300-foot-long, 96-inch-diameter steel penstock, (4) a proposed powerhouse containing four generating units with a total installed capacity of 2.47 MW, (5) a proposed 2-mile-long, 15 kV transmission line, and (6) appurtenant facilities.

The project would have an annual generation of 10.66 GWh that would be sold to a local utility.

l. A copy of this filing is on file with the Commission and is 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. 01–20958 Filed 8–20–01; 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, Protests, and Comments

August 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12065–000.

c. *Date filed:* July 3, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Big Timber.

f. *Location:* On the Big Timber River, in Sweet Grass County, Montana. Would be located on U.S. Forest Service lands.

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.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

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, motions to intervene, and protests may be electronically filed via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under ''e-filing'' link. Please include the project number (P–12065–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) A proposed 120-foot-long, 10-foot-high diversion dam, (2) a proposed impoundment having a surface area of 1 acre with negligible storage and normal water elevation of 6,780 feet msl, (3) a proposed 2,000-foot-long, 48-inch-diameter steel penstock, (4) a proposed powerhouse containing four generating units with a total installed capacity of 2.86 MW, (5) a proposed 5-mile-long, 15 kV transmission line, and (6) appurtenant facilities.

The project would have an annual generation of 14.4 GWh that would be sold to a local utility.

l. A copy of this filing is on file with the Commission and is 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. 01–20959 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Draft License Application and Preliminary Draft Environmental Assessment (PDEA) and Request for Preliminary Terms and Conditions

August 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Draft—New Major License.

b. *Project No.:* 637–016.

c. *Applicant:* Public Utility District No.1 of Chelan County (Chelan PUD).

d. *Name of Project:* Lake Chelan Hydroelectic Project.

e. *Location:* On the Chelan River in Chelan County, Washington. The project occupies about 465 acres of federal lands administered by the U.S Forest Service and the National Park Service.

f. *Applicant Contact:* Gregg Carrington, Chelan PUD, 327 North Wenatchee Avenue, P.O. Box 1231, Wenatchee, Washington 98807–1231, 509–663–8121 or within Washington State toll-free at 888–663–8121, email: *gregg@chelanpud.org.*

g. *FERC Contact:* Vince Yearick, FERC, 888 First Street, NE, Room 61–11, Washington, DC 20426, (202) 219–3073, email: *vince.yearick@ferc.fed.us.*

h. Chelan PUD distributed, to interested parties and Commission staff, an initial review version of their Preliminary Draft Environmental Assessment (PDEA) and draft application to interested parties on February 5, 2001 with a 90-day comment period. Chelan PUD distributed, to interested parties and Commission staff, a revised version of the PDEA and draft application to interested parties on August 15, 2001.

i. With this notice we are soliciting preliminary terms, conditions, and recommendations on the PDEA and draft license application that were distributed on August 15, 2001. All comments on the PDEA and draft license application should be sent to the Chelan PUD address above in item (f) with one copy sent to Commission staff at the address above in item (g). For those wishing to file comments with the Commission, an original and eight copies must be filed at the following address: Federal Energy Regulatory Commission, David P. Boergers, Secretary, 888 First St. NE., Washington, DC 20426. All comments should include the project name and number, and bear the heading ''Preliminary Comments,'' ''Preliminary Recommendations,'' ''Preliminary Terms and Conditions,'' or ''Preliminary Prescriptions.'' Comments and preliminary recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

j. *Comment deadline:* Any party interested in commenting must do so before October 15, 2001.

k. *Locations of the application:* A copy of the draft application and PDEA 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). Copies are also available for inspection and reproduction at the address in item f above.

David P. Boergers,

Secretary.

[FR Doc. 01–20961 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Revised Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

August 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11873–000.

c. *Date filed:* January 23, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Star Falls Project.

f. *Location:* On the Snake River, in Twin Falls and Jerome Counties, Idaho. Would occupy federal land managed by the Bureau of Land Management.

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.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 30 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, D.C. 20426.

Please include the project number (P–11873–000) on any comments, protests, 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) A proposed 400-foot-long, 20-foot-high diversion dam, (2) a proposed impoundment having a surface area of 14 acres with negligible storage, (3) two proposed 1,300-foot-long, 24-foot-diameter steel penstocks, (4) a proposed powerhouse containing two generating units having a total installed capacity of 25 MW, (5) a proposed 138 kV transmission line, and (6) appurtenant facilities. The project would have an annual generation of 104 GWh that would be sold to a local utility.

On April 3, 2001, the Commission issued a public notice with a comment period ending on June 4, 2001. The notice contained an inaccurate description of the project in that the project dam was described as existing instead of proposed.

All comments filed to date will be considered. If you wish to revise your comments in view of this corrected

project description please file your comments within 30 days of the issuance date of this notice.

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 follow 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'', ''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. 01–20971 Filed 8–20–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7039–7]

EPA Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the EPA Science Advisory Board's (SAB) Executive Committee will conduct a public teleconference meeting on September 17, 2001 between the hours of 1:00 pm to 3:00 pm Eastern Time. The meeting will be coordinated through a conference call connection in Room 6013 in the USEPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The public is encouraged to attend the meeting in the conference room noted above. However, the public may also attend through a telephonic link, to the extent that lines are available. Additional instructions about how to participate in the conference call can be obtained by calling Ms. Diana Pozun (see contact information below).

Purpose of the Meeting: In this meeting, the Executive Committee plans to review reports from some of its Committees/Subcommittees, most likely including the following:

(a) *Executive Committee Subcommittee on the National-Scale Air Toxics Assessment (NATA) Review Panel*—National Scale Air Toxics Assessment: An SAB Report (see 66 FR 28904, dated May 25, 2001 for details).

(b) *Environmental Health Committee (EHC) & Integrated Human Exposure Committee (IHEC) Joint Review Panel*—Proposed Indoor Air Pollutant Ranking Methodology: An SAB Report (see 66 FR 34924, dated July 2, 2001 for details).

(c) *Ecological Processes and Effects Committee (EPEC)*—(1) USEPA's Science to Achieve Results (STAR) Program for Waters and Watersheds: An SAB Report (see 66 FR 15433, dated March 19, 2001) and (2) Planning for Ecological Risk management: Developing Management Objectives: An SAB Report (66 FR 34924, dated July 18, 2001 for details).

Availability of Review Materials: Drafts of the reports that will be reviewed at the meeting will be available to the public on the SAB website (http://www.epa.gov/sab) approximately two weeks prior to the meeting.

Charge to the Executive Committee: The focus of the review of these four reports will be on the following questions: (a) Has the SAB adequately responded to the questions posed in the

Charge? (b) Are the statements and/or responses in the draft report clear? and (c) Are there any errors of fact in the report?

In accord with the Federal Advisory Committee Act (FACA), the public and the Agency are invited to submit written comments on these three questions that are the focus of the review. Submissions should be received by September 10, 2001 by Ms. Diana Pozun, EPA Science Advisory Board, Mail Code 1400A, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (Telephone (202) 564–4544, FAX (202) 501–0582; or via e-mail at *pozun.diana@epa.gov).* Submission by e-mail to Ms. Pozun will maximize the time available for review by the Executive Committee.

Although not required by FACA, the SAB will have a brief period available for applicable public comment. Therefore, anyone wishing to make oral comments on the three focus questions above, but that are not duplicative of the written comments, should contact the Designated Federal Officer for the Executive Committee, Dr. Donald G. Barnes (see contact information below) by September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting should contact Dr. Donald Barnes, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–4533; FAX (202) 501–0323; or via e-mail at *barnes.don@epa.gov.*

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible (unless otherwise stated). The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes. For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting.

Written Comments: Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information: Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access: Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Dr. Barnes at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: August 10, 2001.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 01–21046 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–100009; FRL 6723–2]

Public Meeting to Discuss Guidance Document for Lead and Lead Compounds; Community Right-to-Know Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of pending availability; request for comments and request for workgroup members.

SUMMARY: On January 17, 2001, EPA published a final rule (66 FR 4499–4547) that lowered the reporting thresholds for lead and lead compounds, under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). With this rulemaking EPA lowered the 25,000 pound and 10,000 pound manufacturing, processing and otherwise use reporting thresholds to 100 pounds (except for lead contained in stainless steel, brass, and bronze alloys). EPA is currently developing a guidance document intended to assist regulated entities, particularly those that are not familiar with completing and submitting EPCRA section 313 release reports, in complying with this new regulation. This guidance document will provide guidance on: The specific details of this new regulation; which facilities must file release reports for lead and lead compounds; and methods to estimate releases of lead and lead compounds into the environment associated with manufacture, processing, use, or waste management activities of lead and lead compounds. With this notice EPA is announcing that a public meeting has been scheduled to take place on September 24, 2001, in Arlington, Virginia to discuss the draft version of this guidance document, which will be made available approximately three weeks prior to the meeting. EPA is requesting comments on this draft guidance document when it becomes available and is also requesting the participation of interested stakeholders on a workgroup to assist in the preparation of the final guidance document.

DATES: Written comments, identified by the docket control number OEI–100009, must be received by EPA on or before September 20, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Stephen C. DeVito, (202) 260–6185, e-mail: devito.steve@epa.gov, for specific information on this notice and the guidance document described herein. For more information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: (703) 412–9877 or Toll free TDD: 1–800–553–7672. Information concerning this notice is also available on EPA's Web site at http://www.epa.gov/tri.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

You may be interested in this notice if you manufacture, process, or otherwise use lead or lead compounds. Potentially interested categories and entities may include, but are not limited to:

Category	Examples of Potentially Interested Entities
Industry	SIC major group codes 10 (except 1011, 1081, and 1094), 12 (except 1241), or 20 through 39; industry codes 4911 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); 4931 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. section 6921 *et seq.*), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis)
Federal Government	Federal facilities

This table is not intended to be complete, but rather provides a guide for readers regarding entities likely to be interested in this notice. Other types of entities not listed in the table could also be interested. To determine whether your facility may be interested in this notice, you should carefully examine the applicability criteria in part 372, subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this notice to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Additional Information on the Upcoming Public Meeting, and a Copy of the Draft Guidance Document?

1. Information Pertaining to the Upcoming Public Meeting. Please note that there is limited attendance at the public meeting. To register to attend the public meeting, please contact Andrea Auerbach of the Eastern Research Group, Inc. by electronic mail at meetings@erg.com or by telephone at: (781) 674–7374. Upon registering, you will receive a confirmation notice including information on the hotel, driving directions and other logistics. Information regarding the upcoming public meeting may also be obtained by visiting the following EPA internet address: http://www.epa.gov/tri, and selecting ''What's New''.

2. *Obtaining a Copy of the Draft Guidance Document.* The draft version of the guidance document for which EPA is requesting public comment and will be discussed at the public meeting to be held on September 24, 2001, is currently under development. The draft version will be made available for public comment approximately three weeks prior to the public meeting. Copies of the draft version will be made available as follows:

a. Electronically. The draft guidance document for lead and lead compounds will be made available for downloading at http://www.epa.gov/tri/. You may obtain electronic copies of this FR notice from the EPA internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' 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/ for a copy of this **Federal Register** notice.

b. In person. The Agency has established an official record for this action under docket control number OEI–100009. The official record will consist of the document specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (i.e., ''OEI–100009'') in your correspondence.

1. By mail. Submit written comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. In person or by courier. Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is: (202) 260–7093.

3. Electronically. Submit your comments electronically by E-mail to: ''oppt.ncic@epa.gov.'' Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OEI–100009. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want to Submit to the Agency?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked

confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the **FOR FURTHER INFORMATION CONTACT** section.

II. Background Information

A. What is the Purpose of This Notice?

The purpose of this notice is to announce that a public meeting will be held to discuss the draft version of an EPA document titled: ''Emergency Planning and Community Right-to-Know Act—Section 313: Guidance for Reporting Toxic Chemicals: Lead and Lead Compounds''. The meeting will take place on September 24, 2001, at the Holiday Inn Arlington at Ballston, Arlington, Virginia. The draft document, which is currently under development by EPA, will be made available for comment approximately three weeks prior to the meeting. Once finalized, the purpose of this document is to assist regulated entities, particularly those that are not familiar with completing and submitting EPCRA section 313 release reports, in complying with this new regulation. This guidance document will provide guidance on: the specific details of this new regulation; which facilities must file release reports for lead and lead compounds; and methods to estimate releases of lead and lead compounds into the environment associated with manufacture, processing, use, or waste management activities. EPA would like to receive comments on the technical contents of the draft guidance document, particularly on the methods of estimating releases and other waste management quantities for lead and lead compounds. Unit I.B. of this notice contains information on how to get copies of the draft guidance document once the document becomes available. Through this notice EPA is also announcing that a public meeting has been scheduled to take place on September 24, 2001, to discuss the draft guidance. Stakeholders interested in attending this meeting should contact the person or internet address identified in Section I.B.1 ''Information Pertaining to the Upcoming Public Meeting'' section of this notice. Please note that attendance at this meeting is limited. Attendance at the public meeting is not necessary for comments to be considered; all comments received within the allocated timeframe stated in this notice will be considered in preparing the final guidance document.

List of Subjects in 40 CFR Part 372

Environmental protection, Chemicals, Community right-to-know, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements, Superfund.

Dated: August 10, 2001.

Maria Doa,

Acting Director, Office of Information Analysis and Access.

[FR Doc. 01–21049 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7039–8]

Notice of Proposed De Minimis Administrative Order on Consent Pursuant to Section 122(g) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), PCB Treatment, Inc. Superfund Site, Kansas City, Kansas, and Kansas City, Missouri, CERCLA Docket No. 07–2001–0008.

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed *de minimis* administrative order on consent, PCB Treatment, Inc. superfund site, Kansas City, Kansas, and Kansas City, Missouri.

SUMMARY: Notice is hereby given that a proposed de minimis administrative order on consent regarding the PCB Treatment, Inc. Superfund Site, was signed by the United States Environmental Protection Agency (EPA) on August 21, 2001. The proposed settlement was approved by the United States Department of Justice (DOJ) on May 30, 2001.

DATES: EPA will receive until September 20, 2001 written comments relating to the proposed *de minimis* administrative order on consent.

ADDRESSES: Comments should be addressed to Audrey Asher, Senior Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101 and should refer to PCB Treatment, Inc. Superfund Site De Minimis Administrative Order on Consent, CERCLA Docket No. 07–2001–0008.

The proposed agreement may be examined or obtained in person or by mail from Norma Tharp, Paralegal Specialist, at the office of the United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101, (913) 551–7076.

SUPPLEMENTARY INFORMATION: The PCB Treatment, Inc. Superfund Site consists of two facilities, about two miles apart, located in the industrial area of Kansas City, Kansas (Ewing Street) and Kansas City, Missouri (Wyandotte Street).

The facilities were formerly operated by PCB Treatment, Inc., now a defunct corporation. PCB Treatment, Inc. received and stored PCB-containing oil, waste materials, transformers and capacitors between 1982 and 1987. Samples collected at the Site in the late 1990s indicated that the PCB contamination at Ewing Street exceeded 1,790 parts per million (ppm) in the building and 1,450 ppm in the soils. The PCB contamination found at Wyandotte Street exceeded 23,800 ppm in the building and 800 ppm in the soils.

Over 1,000 parties arranged for disposal of PCB wastes at the Site. EPA developed a formula that took into account the type of waste sent and the capacity of the waste to contribute to the PCB contamination. EPA has determined that any party who arranged for disposal of no more than 733,190 allocated pounds or eight-tenths of a percent of the allocated weight of all materials containing hazardous substances sent to the Site for disposal contributed a de minimis volume of waste to the Site and that such wastes are not more toxic than any other hazardous substance at the Site.

EPA estimates that clean up costs will exceed $35,000,000. Cleanup may be performed by EPA or, if negotiations are successful, a group of potentially responsible parties whose allocated weight exceeds eight-tenths of a percent.

This proposed settlement provides an opportunity for small volume contributors to settle their liability through a cash-out. Each settlor will pay a share of cleanup costs based on its allocated weight and will pay either a 50% premium with a cost reopener if cleanup exceeds $60,000,000 or a 100% premium with no cost reopener. Over 300 parties wish to enter into this settlement. EPA will recover over $7,109,000.

Dated: August 13, 2001.

William W. Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 01–21044 Filed 8–20–01; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 01–1924]

Public Safety National Coordination Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document advises interested persons of a meeting of the Public Safety National Coordination Committee (''NCC''), which will be held in Washington, D.C. The Federal Advisory Committee Act, Public Law 92–463, as amended, requires public notice of all meetings of the NCC. This notice advises interested persons of the fourteenth meeting of the Public Safety National Coordination Committee.

DATES: September 14, 2001 at 9:30 a.m.–12:30 p.m.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, Michael J. Wilhelm, (202) 418–0680, e-mail mwilhelm@fcc.gov. Press Contact, Meribeth McCarrick, Wireless Telecommunications Bureau, 202–418–0600, or e-mail mmccarri@fcc.gov.

SUPPLEMENTARY INFORMATION: Following is the complete text of the Public Notice: This Public Notice advises interested persons of the fourteenth meeting of the Public Safety National Coordination Committee (''NCC''), which will be held in Washington, DC. The Federal Advisory Committee Act, Public Law 92–463, as amended, requires public notice of all meetings of the NCC.

Date: September 14, 2001.

Meeting Time: General Membership Meeting—9:30 a.m.–12:30 p.m.

Address: Federal Communications Commission, 445 12th Street, SW., Commission Meeting Room, Washington, DC 20554.

The NCC Subcommittees will meet from 9:00 a.m. to 5:30 p.m. the previous day. The NCC General Membership Meeting will commence at 9:30 a.m. and continue until 12:30 p.m. The agenda for the NCC membership meeting is as follows:

1. Introduction and Welcoming Remarks
2. Administrative Matters
3. Presentation by Telecommunications Industries Association on Wideband Data Interoperability Standards
4. Report from the Interoperability Subcommittee
5. Report from the Technology Subcommittee
6. Report from the Implementation Subcommittee
7. Public Discussion
8. Other Business
9. Upcoming Meeting Dates and Locations
10. Closing Remarks

The FCC has established the Public Safety National Coordination Committee, pursuant to the provisions of the Federal Advisory Committee Act, to advise the Commission on a variety of issues relating to the use of the 24 MHz of spectrum in the 764–776/794–806 MHz frequency bands (collectively, the 700 MHz band) that has been allocated to public safety services. *See* The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010 and Establishment of Rules and Requirements For Priority Access Service, WT Docket No. 96–86, *First Report and Order and Third Notice of Proposed Rulemaking,* FCC 98–191, 14 FCC Rcd 152 (1998), 63 FR 58645 (11–2–98).

The NCC has an open membership. Previous expressions of interest in membership have been received in response to several Public Notices inviting interested persons to become members and to participate in the NCC's processes. All persons who have previously identified themselves or have been designated as a representative of an organization are deemed members and are invited to attend. All other interested parties are hereby invited to attend and to participate in the NCC processes and its meetings and to become members of the Committee. This policy will ensure balanced participation. Members of the general public may attend the meeting. To attend the fourteenth meeting of the Public Safety National Coordination Committee, please RSVP to Joy Alford or Bert Weintraub of the Policy and Rules Branch of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau of the FCC by calling (202) 418–0680, by faxing (202) 418–2643, or by E-mailing at jalford@fcc.gov or bweintra@fcc.gov. Please provide your name, the organization you represent, your phone number, fax number and e-mail address. This RSVP is for the purpose of determining the number of people who will attend this fourteenth meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. Persons requesting accommodations for hearing disabilities should contact Joy Alford immediately at (202) 418–7233 (TTY). Persons requesting accommodations for other physical disabilities should contact Joy Alford immediately at (202) 418–0694 or via e-mail at jalford@fcc.gov. The public may submit written comments to the NCC's Designated Federal Officer before the meeting.

Additional information about the NCC and NCC-related matters can be found on the NCC website located at: http://www.fcc.gov/wtb/publicsafety/ncc.html.

Federal Communications Commission.

Jeanne Kowalski,

Deputy Division Chief for Public Safety, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 01–21000 Filed 8–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Ace Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, August 21, 2001, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider matters relating to the Corporation's enforcement, corporate, resolution, and supervisory activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: August 17, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–21212 Filed 8–17–01; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

[Notice 2001–11]

Filing Dates for the Arkansas Special Election in the 3rd Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Arkansas has scheduled special elections to fill the U.S. House of Representatives seat in the Third Congressional District vacated by Congressman Asa Hutchinson. There are three possible special elections, but only two may be necessary.

- Primary Election: September 25, 2001.
- Possible Runoff Election: October 16, 2001. In the event that one candidate does not achieve more than 50% of the vote in his/her party's Special Primary Election, the top two vote-getters will participate in a Special Runoff Election.
- General Election: November 20, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory J. Scott, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: Principal Campaign Committees

Special Primary Only

All principal campaign committees of candidates *only* participating in the Arkansas Special Primary shall file a 12-day Pre-Primary Report on September 13, 2001. (See chart below for the closing date for the report.)

Special Primary and General Without Runoff

If only two elections are held, all principal campaign committees of candidates participating in the Arkansas Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on September 13, 2001; a Pre-General Report on November 8, 2001; and a Post-General Report on December 20, 2001. (See chart below for the closing date for each report.)

Special Primary and Runoff Elections

All principal campaign committees of candidates *only* participating in the Arkansas Special Primary and Special Runoff Elections shall file a 12-day Pre-Primary Report on September 13, 2001; and a Pre-Runoff Report on October 4, 2001. (See chart below for the closing date for each report.)

Special Primary, Runoff and General Elections

All principal campaign committees of candidates participating in the Arkansas Special Primary, Special Runoff and Special General Elections shall file a 12-day Pre-Primary Report on September 13, 2001; a Pre-Runoff Report on October 4, 2001; a Pre-General Report on November 8, 2001; and a Post-General Report on December 20, 2001. (See chart below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees that file on a semiannual basis during 2001 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Arkansas Special Primary, Runoff or General Elections by the close of books for the applicable report(s). Consult the chart below that corresponds to the committee's situation for close of books and filing date information.

Committees filing monthly that support candidates in the Arkansas Special Primary, Special Runoff or Special General Elections should continue to file according to the non-election year monthly reporting schedule.

CALENDAR OF REPORTING DATES FOR ARKANSAS SPECIAL ELECTIONS

Report	Close of Books[1]	Reg./Cert. Mailing Date[2]	Filing Date
Committees involved in *only* the special primary (09/25/01) must file:			
Pre-Primary	09/05/01	09/10/01	09/13/01
Year-End	12/31/01	01/31/02	01/31/02
If only two elections are held, committees involved in the special primary (09/25/01) and the special general (11/20/01) must file:			
Pre-Primary	09/05/01	09/10/01	09/13/01
Pre-General	10/31/01	11/05/01	11/08/01
Post-General	12/10/01	12/20/01	12/20/01
Year-End	12/31/01	01/31/02	01/31/02
If three elections are held, committees involved in only the special primary (09/25/01) and special runoff (10/16/01) must file:			
Pre-Primary	09/05/01	09/10/01	09/13/01
Pre-Runoff	09/26/01	10/01/01	10/04/01
Year-End	12/31/01	01/31/02	01/31/02
Committees involved in the special primary (09/25/01), special runoff (10/16/01) and the special general (11/20/01) must file:			
Pre-Primary	09/05/01	09/10/01	09/13/01
Pre-Runoff	09/26/01	10/01/01	10/04/01
Pre-General	10/31/01	11/05/01	11/08/01
Post-General	12/10/01	12/20/01	12/20/01
Year-End	12/31/01	01/31/02	01/31/02
Committees involved in *only* the special runoff (10/16/01) must file:			
Pre-Runoff	09/26/01	10/01/01	10/04/01
Year-End	12/31/01	01/31/02	01/31/02
Committees involved in *only* the special general (11/20/01) must file:			
Pre-General	10/31/01	11/05/01	11/08/01
Post-General	12/10/01	12/20/01	12/20/01
Year-End	12/31/01	01/31/02	01/31/02

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

[2] Reports sent registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

Dated: August 16, 2001.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 01–21012 Filed 8–20–01; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 14, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Whitney Holding Corporation, New Orleans, Louisiana; to merge with Redstone Financial, Inc., Houston, Texas, and thereby indirectly acquire Northwest Bank, N.A., Houston, Texas.

Board of Governors of the Federal Reserve System, August 16, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–21073 Filed 8–20–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 5, 2001.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Central Co-operative Bank Employee Stock Ownership Plan Trust, Somerville, Massachusetts; to acquire additional voting shares of Central Bancorp, Inc., Somerville, Massachusetts, and thereby indirectly acquire additional voting shares of Central Co-operative Bank, Somerville, Massachusetts.

Board of Governors of the Federal Reserve System, August 16, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–21072 Filed 8–20–01; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0197]

Submission for OMB Review; Comment Request Entitled GSAR Provision 552.237–70, Qualifications of Offerors

AGENCY: General Services Administration, GSA.

ACTION: Notice of a request for 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 General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning the Qualifications of Offerors under the Service Contracting.

Public comments are particularly invited on: Whether the information collection generated by the General Services Administration Acquisition Regulation (GSAR) Provision, Qualifications of Offerors, is necessary, to determine an offeror is responsible to work under a GSA contract and to properly determine an offeror's competency in performing comparable building service contracts; 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: Comments may be submitted on or before October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Julia Wise, Acquisition Policy Division, GSA (202) 208–1168.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of service contracts. These mission responsibilities generate requirements that are realized through the solicitation and award of contracts for building services. Individual solicitations and resulting contracts may impose unique information collection and reporting requirements on contractors not required by regulation, but necessary to evaluate particular program

accomplishments and measure success in meeting program objectives.

B. Annual Reporting Burden

Respondents: 6722.
Annual Responses: 6722.
Burden Hours: 6722.

Obtaining Copies of Proposals

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202)501–4744, or by faxing your request to (202)501–4067. Please cite OMB Control No. 3090–0197, Qualifications of Offerors, in all correspondence.

Dated: August 10, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 01–21063 Filed 8–20–01; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0043]

Submission for OMB Review; Comment Request Entitled Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357)

AGENCY: General Services Administration (GSA).

ACTION: Notice of a request for 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 General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357).

DATES: Comments may be submitted on or before October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Robert A. Yevoli, Public Buildings Service, GSA (202) 219–1403.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0043, concerning Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357). Form 3357 is needed by GSA contract and staff appraisers who use the form for estimating parking rates assessed on Federal agencies occupying space in GSA owned or controlled buildings.

B. Annual Reporting Burden

Respondents: 260.
Annual Responses: 1,300.
Average Hours Per Response: 1.6.
Burden Hours: 2,080.

Obtaining Copies of Proposals

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0043, Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357), in all correspondence.

Dated: August 13, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 01–21064 Filed 8–20–01; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0014]

Submission for OMB Review; Comment Request Entitled Transfer Order-Surplus Personal Property and Continuation Sheet

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of a request for an extension to an existing OMB clearance (3090–0014).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) 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 Transfer Order-Surplus Personal Property and Continuation Sheet.

DATES: Comments may be submitted on or before October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Denise Thomas, Federal Supply Services, GSA (703) 308–0742.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0014, concerning Transfer Order-Surplus Personal Property and Continuation Sheet. This form is used by public agencies, nonprofit educational or public health activities, programs for the elderly, service educational activities, and public airports to apply for donation of Federal surplus personal property. The SF 123 serves as the transfer instrument and includes item descriptions, transportation instructions, nondiscrimination assurances, and approval signatures.

B. Annual Reporting Burden

Respondents: 63,000.

Annual Responses: 63,000.

Burden Hours: 18,900.

Obtaining Copies of Proposals

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0014, Transfer Order-Surplus Personal Property and Continuation Sheet, in all correspondence.

Dated: August 13, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 01–21065 Filed 8–20–01; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will discuss outstanding issues such as: assisted reproductive technologies, genetic hybridization, body as property, research involving children, population-based research, cloning and other remaining topics. Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for statements by the public will be provided on September 19 from 1:30–2:00 pm.

DATES/TIMES: September 19, 2001; 8:30 am–3:00 pm.

LOCATION: The International Trade Center, Horizon Ballroom, 1300 Pennsylvania Avenue, N.W., Washington, DC 20004.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1999 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President, and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral statements should contact Ms. Jody Crank by telephone, fax machine, or mail as shown below as soon as possible, at least 4 days before the meeting. The Chair will reserve time for presentations by persons requesting to speak and asks that oral statements be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. The Commission also accepts general comments at its website at bioethics.gov. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Crank, National Bioethics Advisory Commission, 6705 Rockledge Drive, Suite 700, Bethesda, Maryland 20892–7979, telephone (301) 402–4242, fax number (301) 480–6900.

Dated: August 15, 2001.

Marjorie A. Speers,

Acting Executive Director, National Bioethics Advisory Commission.

[FR Doc. 01–20947 Filed 8–20–01; 8:45 am]

BILLING CODE 4167–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01148]

Capacity-Building Assistance (CBA) to Develop and Implement Effective HIV/AIDS Prevention Education Programs for South Africa Trade Unions; Notice of Availability of Funds; Amendment

A notice announcing the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to develop and implement effective HIV/AIDS prevention education programs for South Africa Trade Unions, was published in the **Federal Register** on July 27, 2001, (Vol. 66, No. 145, Pages 39174–39177). The notice is amended as follows:

On page 39176, First Column, Under Section F. Submission and Deadline, delete: ''On or before August 24, 2001, submit the application to the Grants Management Specialist identified in the Where to Obtain Additional Information of this announcement.'' and change to ''On or before September 7, 2001, submit the application to the Grants Management Specialist identified in the Where to Obtain Additional Information of this announcement.''

Dated: August 16, 2001.

John L. Williams,

Director, Procurement and Grants Office, Center for Disease Control and Prevention (CDC).

[FR Doc. 01–21130 Filed 8–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01173]

Expansion of Mother to Child HIV/AIDS Prevention Activities in the Republic of Kenya; Notice of Availability of Funds; Amendment

A notice announcing the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for expansion of mother to child HIV/AIDS prevention activities in the Republic of Kenya, was published in the **Federal Register** on July 18, 2001, (Vol. 66, No. 138, Pages 37473–37475). The notice is amended as follows:

On page 37474, Second Column, Under Section F. Submission and Deadline, delete: ''On or before August 17, 2001, submit the application to the Grants Management Specialist identified in the Where to Obtain Additional Information of this announcement.'' and change to ''On or before August 31, 2001, submit the application to the Grants Management Specialist identified in the Where to Obtain Additional Information of this announcement.''

Dated: August 16, 2001.

John L. Williams,

Director, Procurement and Grants Office, Center for Disease Control and Prevention (CDC).

[FR Doc. 01–21131 Filed 8–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01171]

Expansion of HIV/AIDS Prevention Activities in the Republic of Kenya by Promoting the Establishment of ''Free-Standing'' or ''Stand-Alone'' Sites Which Deliver Voluntary Counseling and Testing Services; Notice of Availability of Funds; Amendment

A notice announcing the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for expansion of HIV/AIDS prevention activities in the Republic of Kenya by promoting the establishment of ''Free-Standing'' or ''Stand-Alone'' sites which deliver voluntary counseling and testing services, was published in the **Federal Register** on July 20, 2001, (Vol. 66, No.

140, Pages 37971–37973). The notice is amended as follows:

On page 37972, Second Column, Under Section F. Submission and Deadline, delete: ''On or before August 17, 2001, submit the application to the Grants Management Specialist identified in the Where to Obtain Additional Information of this announcement.'' and change to ''On or before August 31, 2001, submit the application to the Grants Management Specialist identified in the Where to Obtain Additional Information of this announcement.''

Dated: August 16, 2001.

John L. Williams,

Director, Procurement and Grants Office, Center for Disease Control and Prevention (CDC).

[FR Doc. 01–21132 Filed 8–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research and Evaluation; Grant to the Research Foundation of State University of New York

AGENCY: Office of Planning, Research and Evaluation, ACF, DHHS.

ACTION: Award announcement.

SUMMARY: Notice is hereby given that a noncompetitive grant award is being made to the Research Foundation of State University of New York to study state and local family formation and pregnancy prevention efforts relating to Temporary Assistance to Needy Families (TANF) program. The cost of this one-year project is $284,590. The Research Foundation of State University of New York has developed a network of experienced field researchers and has considerable experience in gathering data from local programs. The project's proposed procedures are expected to yield a rich and detailed picture of program implementation at the local level.

FOR FURTHER INFORMATION CONTACT: K.A. Jagannathan, Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Phone: 202–205–4829.

Dated: August 15, 2001.

Howard Rolston,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 01–20987 Filed 8–20–01; 8:45 am]

BILLING CODE 4184–01–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: Healthy Schools, Healthy Communities Program Data Collection and Progress Report (OMB No. 0915–0188)—Revision

This is a request for revision of approval of the Healthy Schools, Healthy Communities Program Data Collection, which contains the annual reporting requirements for the Healthy Schools, Healthy Communities grantees funded by the Bureau of Primary Health Care (BPHC), HRSA. Authorizing legislation is found in Public Law 104–299, Health Center Consolidation Act of 1996, enacting Section of the Public Health Service Act.

The Healthy Schools, Healthy Communities program provides comprehensive primary and preventive health care services. The purpose of the progress report is to collect data specific to school health services, such as service utilization, health problems and risk behaviors.

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total burden hour
Progress Report	265	1	2	530

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: August 14, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–20984 Filed 8–20–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Leukemia and Other Hematological Diseases Among Cleanup Workers in Ukraine Following the Chornobyl Accident

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 30, 2001, page 29336–29337 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Leukemia and Other Hematological Diseases Among Cleanup Workers in Ukraine Following the Chornobyl Accident. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* A case-control study will be conducted to investigate the risk of radiation-induced leukemia and other hematological diseases among Chernobyl cleanup workers in Ukraine. Cases and controls (or proxies) will be interviewed to provide details of their work during the Chornobyl clean-up operation. The interview responses combined with environmental measurements will permit individual bone marrow dose estimates to be

calculated for each case and control. Dose estimates will be used to calculate the risk of leukemia and other hematological diseases associated with low-dose and low dose-rate radiation exposure. This information, which is essential for radiation protection, is currently not available and standards presently are based on information available only by extrapolation from high-dose, high dose-rate data on A-bomb survivors in Japan. *Frequency of Response:* One time only. *Affected Public:* Ukrainian Chornobyl clean-up workers. *Types of Respondents:* Cases, controls, and proxies for deceased subjects. The annual reporting burden is as follows: *Estimate Number of Respondents:* 700, *Estimated Number of Responses per Respondent:* Variable, about 50, *Average Burden Hours Per Response:* 0.75 hour; and *Estimated Total Annual Burden Hours Requested:* 400 hours (interviews to be conducted over 18-month period). The annualized cost to respondents is estimated at: $4,000. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the National Cancer Institute, including whether the information will have practical utility, (2) evaluate the accuracy of the NCI's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the enhance the quality utility, and clarity of the information to be collected; (4) minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Terry L. Thomas, National Cancer Institute, EPS 7100, 6120 Executive Boulevard, Rockville, MD, 29892–7238, or call the non-toll free number (301) 496–6600.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received on or before September 20, 2001.

Dated: August 13, 2001.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 01–20926 Filed 8–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources, Special Emphasis Panel, Comparative Medicine.

Date: August 29, 2001.

Time: 1 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Camille, M. King, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, MSC 7965, 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892–7965, (301) 435–0815, king@ncrr.nih.gov.

This notice is being published less than 15 days prior the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.333, Clinical Research, 93.371, Biomedical Technology, 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: August 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20928 Filed 8–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: August 20, 2001.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Wilco Building, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sean O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2861,

This notice is being published less than 15 days prior the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: August 23, 2001.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd., Rm. 409, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: L. Tony Beck, Phd, Scientific Review Administrator, National Institute of Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003, 301–443–0913, lbeck@mail.nih.gov.

This notice is being published less than 15 days prior the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93–891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: August 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20929 Filed 8–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke, Special Emphasis Panel.

Date: September 11, 2001.

Time: 7 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Grand Hyatt, 1000 H Street, NW., Washington, DC 20001.

Contact Person: Lillian M. Pubols, PhD., Chief, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223, lp28e@nih.gov.

Name of Committee: National Institute of Neurological Disorders and Stroke, Special Emphasis Panel.

Date: September 11, 2001.

Time: 7 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Grand Hyatt, 1000 H Street, NW., Washington, DC 20001.

Contact Person: Katherine Woodbury, PhD., Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke, Special Emphasis Panel.

Date: September 11, 2001.

Time: 7 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Grand Hyatt, 1000 H Street, NW., Washington, DC 20001.

Contact Person: Richard D. Crosland, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–594–0635.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: August 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20930 Filed 8–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review, Special Emphasis Panel.

Date: August 16, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carl D. Banner, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7850, Bethesda, MD 20892, (301) 435–1251, bannerc@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel.

Date: August 17, 2001.

Time: 12 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eugene Vigil PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7850, Bethesda, MD 20892, (301) 435–1025.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel.

Date: August 20, 2001.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anshumali Chaudhari, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel.

Date: August 20, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nadarajen A. Vydelingum, PhD., Scientific Review Administrator, Special Study Section-8, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, MSC 7854, Rm 5122, Bethesda, MD 20892, (301) 435–1176, vydelinn@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel.

Date: August 21, 2001.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela M.Pattatucci-Aragon, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel.

Date: August 22, 2001.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela M. Pattatucci-Aragon PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852 Bethesda, MD 20892, (301) 435–1175.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel.

Date: August 26–28, 2001.

Time: 7 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Long Island, 3635 Express Drive North, Islandia, NY 11749.

Contact Person: Eugene Vigil, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, comparative Medicine, 93,306; 93.333. Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 3.846–93.878, 93.892, 93.892, 93.893, Natioinal Institutes of Health, HHS)

Dated: August 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20927 Filed 8–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Voluntary Customer Satisfaction Surveys to Implement Executive Order 12862 in the Substance Abuse and Mental Health Services Administration (SAMHSA)

OMB No. 0930–0197; Extension—Executive order 12862 directs 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.'' SAMHSA provides significant services directly to the public, including treatment providers and State substance abuse agencies, through a range of mechanisms, including publications, technical assistance and web sites. Many of these services are focused on information dissemination activities. The purpose of this submission is to extend the existing generic approval for such surveys.

The primary use for information gathered is to identify strengths and weaknesses in current service provisions by SAMHSA and to make improvements that are practical and feasible. Several of the customer satisfaction surveys expected to be implemented under this approval will provide data for measurement of program effectiveness under the Government Performance and Results Act (GPRA). Information from these customer surveys will be used to plan and redirect resources and efforts to improve or maintain a high quality of service to health care providers and members of the public. Focus groups may be used to develop the survey questionnaire in some instances.

The estimated annual hour burden is as follows:

Type of data collection	Number of respondents	Responses/respondent	Hours/response	Total hours
Focus group	150	1	2.50	375
Mail/telephone.e-mail survey	10,000	1	.33	3,300
Total	10,150			3,675

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 14, 2001.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Administration.

[FR Doc. 01–21004 Filed 8–20–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Mandatory Guidelines for Federal Workplace Drug Testing Programs

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of proposed revisions.

SUMMARY: The Department of Health and Human Services (HHS) is proposing to establish standards for determining the validity of urine specimens collected under the Mandatory Guidelines for Federal Workplace Drug Testing Programs. These proposed standards are intended to ensure that validity testing and reporting procedures are uniformly applied to all Federal agency urine specimens when a validity test is conducted.

DATES: Submit comments on or before October 22, 2001.

ADDRESSES: Written comments should be sent to Robert L. Stephenson II, M.P.H., Director, Division of Workplace Programs, CSAP, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Walter F. Vogl, Ph.D., Drug Testing Section, Division of Workplace Programs, CSAP, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, Maryland 20857, tel. (301) 443–6014, fax (301) 443–3031, or email: *wvogl@samhsa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines), as revised in the **Federal Register** on June 9, 1994 (59 FR 29908) and on September 30, 1997 (62 FR 51118), establish the scientific and technical guidelines for Federal workplace drug testing programs and establish standards for certification of laboratories engaged in urine drug testing for Federal agencies under authority of Public Law 100–71, 5 U.S.C. 7301 note, and Executive Order No. 12564.

The current version of the Mandatory Guidelines, at section 2.1(c), permits testing to determine the validity of Federal employees' urine specimens. Specimen validity testing refers to testing conducted by a laboratory to identify any attempt to tamper with a specimen. This includes testing to identify adulteration (e.g., putting a substance into a specimen that is designed to mask or destroy the drug or drug metabolite that the specimen may contain or to adversely affect the assay reagent) or substitution (e.g., diluting a urine specimen with a liquid to effectively decrease the concentration of a drug below the cutoff concentration, or replacing a valid urine specimen with a drug-free specimen). It is expected that laboratories conduct such testing in a forensically sound manner as is required for all of the laboratories' testing. *See* section 3.20(c).

During the past few years, the laboratories certified under the National Laboratory Certification Program (NLCP) have reported that the number of adulterated and substituted urine specimens has been increasing. A recent audit conducted of the 66 certified laboratories in the NLCP identified a total of 6,440 adulterated specimens and 2,821 substituted specimens reported to Medical Review Officers (MROs) during the last two years. These numbers refer to specimens tested under the Federal agency workplace drug testing program and the U.S. Department of Transportation (DOT) regulations (49 CFR part 40) that are applicable to DOT Federally regulated programs with a total of approximately 13 million specimens being tested during this time. The results of this audit suggest that adulteration and substitution are growing concerns within the Federal and Federally regulated workplace drug testing program and that every effort must be made to ensure the complete reliability and accuracy of the validity test results reported by the laboratories.

In response to the reports made by NLCP certified laboratories on the increased number of adulterated and substituted specimens, the Substance Abuse and Mental Health Services Administration (SAMHSA), a component of HHS, and DOT began a process, using the SAMHSA Drug Testing Advisory Board (DTAB), to assist them in developing reasonable standards for the testing and reporting of validity test results for urine specimens tested in the Federal and Federally-regulated programs.

An extensive literature review was conducted to assist HHS and DOT in determining the normal ranges for the routine clinical measurements that could be conducted on urine specimens. The literature review was subsequently published in the *Journal of Analytical Toxicology* (J.D. Cook, Y.H. Caplan, C.P. LoDico, and D.M. Bush. The Characterization of Human Urine for Specimen Validity Determination in Workplace Drug Testing: A Review. *J. Anal. Toxicol.* 24: 579–588 (2000)). Standards were developed as to what were forensically sound criteria for classifying urine specimens as substituted. It was determined that a urine specimen meeting the criteria of creatinine less than or equal to 5.0 mg/dL and specific gravity less than or equal to 1.001 or greater than or equal to 1.020 should be considered a substituted specimen. Such a specimen is not consistent with the clinical characteristics associated with normal human urine. It was further determined that urine specimens with pH values less than or equal to 4.5 and greater than or equal to 8.0 are highly suspect for tampering. Moreover, a urine specimen should be considered adulterated if its pH is less than or equal to 3 or greater than or equal to 11.

To provide additional information about substitution, DOT conducted a study designed specifically to focus on the paired measurements of creatinine concentration and specific gravity in urine specimens provided by a group of volunteers. The text of this study is available on the DOT's Office of Drug and Alcohol Policy and Compliance web site (*www.dot.gov/ost/dapc*). All participants agreed to consume at least 80 ounces of fluid spread evenly over six consecutive hours. The protocol asked each participant to consume 40 ounces of fluid within the first three hours of the six-hour test period. This would be immediately followed by the consumption of at least another 40 ounces in the last three hours of the six-hour period. Urine specimens were collected prior to the start of the six-hour period and at the end of each subsequent hour in the test period. Urine specimens were also collected on awakening the morning of the test day and on awakening the morning following the test day (this amounted to a total of nine urine specimens being requested from each participant). Height, weight, age, gender, ethnicity, eating habits, and medications taken regularly and on the day of the collections were also documented. All urine specimens were sent to an HHS-certified laboratory where creatinine and specific gravity were measured using well-established laboratory techniques. The 56 subjects provided a total of 500 urine specimens. Two participants were unable to consume the minimum amount of fluid originally intended. The remainder consumed at least the minimum requested. Twelve participants (5 men and 7 women) consumed over one gallon of fluid by the end of their test periods. Not one of the 500 specimens was identified as substituted using the HHS criteria to report a specimen as substituted. There was no evidence that individuals, regardless of gender, other factors, or intentionally consuming unusually large amounts of fluids, are capable of physiologically producing urine that satisfy the HHS substitution criteria.

The extensive literature review, the recommendation from the DTAB, and the results of the special substitution study conducted by DOT contributed to HHS and DOT issuing documents that established guidance for reporting urine specimens as substituted or adulterated.[1]

It has come to HHS's attention that, despite the previous guidance set forth by the HHS and DOT, some laboratories did not, in the past, follow the guidance. In the published revision to 49 CFR Part 40, ''Procedures for Transportation

[1] HHS issued NLCP Program Document #35 on September 28, 1998, and NLCP Program Document #37 on July 28, 1999. DOT issued a memorandum to MROs on September 28, 1998, and its revised DOT regulation, 49 CFR Part 40, on December 19, 2000.

Workplace Drug and Alcohol Testing Programs'' (65 FR 79462, December 19, 2000), DOT outlines a series of errors in validity testing. Upon further investigation by HHS, it was discovered that some laboratories had engaged in ''truncating'' creatinine results and certain laboratories had reported tests as substituted that did not meet both substitution criteria for creatinine and specific gravity measurements. *See* 65 FR 79481–82. Because DOT has thoroughly outlined the results of this investigation in its newly-issued Part 40, we do not duplicate that discussion here.

In an effort to eliminate the possibility that HHS-certified laboratories will use different validity testing practices, we find it necessary to explicitly delineate required standards for forensically sound validity testing in the Mandatory Guidelines.

In addition, the Department proposes to require specimen validity testing for all Federal employee urine specimens. Federal agency drug-free workplace programs have been established by more than 120 Executive Branch Federal agencies and have a potential impact on 1.7 million Federal employees. The specimen validity testing and drug testing quality assurance provisions of the NLCP apply equally to all of the laboratories that provide forensic urine drug testing for Federal agencies and, by reference in the DOT regulations at 49 CFR Part 40, employers regulated by DOT.

This notice specifically seeks public comments from the Federal agencies and employees covered by Executive Order 12564 and Public Law 100–71 on the proposal to require specimen validity testing as part of their drug testing programs. We seek comment on all aspects of these proposed guidelines, including comments on special budget and related human resource issues to help inform policy development.

As indicated above, under the proposed new section 2.1(a)(4) of the Guidelines, Federal agencies would be required to have validity tests performed on all Federal employee urine specimens.

The proposed new section 2.4(g) of the Guidelines requires laboratories to conduct validity testing on all Federal employee urine specimens and to comply with the provisions of these Guidelines that specify requirements for conducting validity testing. The HHS literature review, the recommendation by the DTAB, and the article published in the *Journal of Analytical Toxicology* provided the basis for the substitution and adulteration criteria set forth in these required standards and demonstrated that the cutoff levels were scientifically sound. Regarding the portion of validity testing that includes testing for adulterants, the proposed revision to section 2.4(g)(1) of the Guidelines provides that laboratories must perform specific validity tests for oxidizing adulterants (section 2.4(g)(1)(iv)). When there is an indication that a specimen may have been adulterated, laboratories must perform additional validity tests for specific adulterants (section 2.4(g)(v)). With regard to cutoff concentrations for adulterants, only nitrite (section 2.4(k)(ii)) has a specified cutoff concentration in a urine specimen beyond which the specimen can be considered to be adulterated. Other currently identified adulterants are foreign substances that may be toxic.

We have found from experience that the adulterant market is volatile and that the popularity of particular adulterants alternately wax and wane. Moreover, as laboratories become aware of certain adulterants, and develop screening procedures for those substances, other adulterants rise in popularity as a way to ''beat the test.'' Therefore, in order to keep the laboratories informed of known adulterants, HHS will include a list of known adulterants in the monthly **Federal Register** notice that lists the laboratories that meet minimum standards to engage in urine drug testing for Federal agencies and employers regulated by DOT.

All provisions of the Guidelines that regulate laboratories and the conduct of workplace drug testing are applicable to specimen validity testing. In addition, the proposed revision of section 2.6 provides for review of validity test results by a Medical Review Officer (MRO).

Explanations of the proposed changes to the Mandatory Guidelines are presented below according to the section of the Guidelines that they affect.

Subpart A—General

In section 1.2, the Secretary proposes to add new definitions associated with specimen validity testing. These include the definitions for ''adulterated specimen,'' ''confirmatory validity test,'' ''dilute specimen,'' ''initial validity test,'' ''invalid result,'' ''non-negative specimen,'' ''oxidizing adulterant,'' and ''substituted specimen.''

Subpart B—Scientific and Technical Requirements

The Secretary proposes to revise paragraph 2.1(a) to require the workplace drug testing programs of all Federal agencies to have specimen validity tests conducted on all Federal employee urine specimens.

The Secretary proposes to revise paragraph 2.1(c) to clarify that other drug tests are not normally permitted on urine specimens.

The Secretary proposes to revise paragraph 2.2(h)(6) to give the donor the right to request that a split (Bottle B) specimen be tested to confirm an adulteration or substitution result that was reported by the primary laboratory on the primary (Bottle A) specimen. This proposed change in the Guidelines ensures that a donor has the same right to challenge the accuracy of an adulteration or substitution result as a drug positive result on a primary (Bottle A) specimen. This is consistent with DOT's 49 CFR Part 40 regulation, which implemented this requirement as of January 18, 2001.

The Secretary proposes to add a new paragraph 2.4(g), entitled ''Validity Testing.'' This paragraph requires a laboratory to conduct validity testing and establishes the criteria that must be used by a laboratory to report a specimen as adulterated, substituted, invalid, or diluted. As stated in the background information, the criteria for adulteration and substitution are based on the scientific evidence that was available at the time the criteria were established and are used by many laboratories to determine whether specimens are adulterated or substituted. The criteria for reporting an invalid result for a specimen are based on obtaining validity or drug test results that are not within ''normal'' ranges or when a specific adulterant cannot be identified. The criteria for reporting a specimen as dilute were established by DOT in the early 1990s based on a review of the normal values for creatinine and specific gravity.

The Secretary is proposing in paragraph 2.4(g)(2) to establish a pH cutoff for reporting a specimen as adulterated and in paragraph 2.4(g)(3) to establish a creatinine cutoff and a specific gravity cutoff for reporting a specimen as substituted. These cutoff levels have been selected to be outside the normal ranges for these indicators as identified in the extensive literature review conducted by the HHS. The creatinine cutoff established in the literature review is less than or equal to 5 mg/dL; the Secretary proposes a creatinine cutoff of less than 5 mg/dL. The specific gravity cutoff established in the literature review is less than or equal to 1.001; the Secretary proposes a specific gravity cutoff of less than 1.002. The pH cutoff established in the literature review is less than or equal to

3; the Secretary proposes a pH cutoff of less than 3. Using the proposed cutoffs, the creatinine and pH cutoffs are mathematically simplified from the cutoffs developed in the literature review to eliminate errors associated with truncating results. Changing the inequality from ''less than or equal to'' to ''less than'' for creatinine, specific gravity, and pH was also done for clarity and consistency with respect to all other drug test cutoffs. These changes are also consistent with the required number of significant digits for creatinine and pH measurements. With regard to specific gravity, using a cutoff of less than 1.002 is essentially the same as using a cutoff of less than or equal to 1.001. Most of the instruments currently used for measuring specific gravity only read differences of 0.001 (i.e., to 3 decimal places). Therefore, specific gravity readings of 1.000 and 1.001 will continue to be considered as substituted specimens when combined with a creatinine less than 5 mg/dL. A specimen with a specific gravity reading of 1.002 and a creatinine less than 5 mg/dL would be reported as invalid.

The Secretary is proposing to revise paragraph 2.4(i), redesignated as paragraph 2.4(j), to require a second laboratory to conduct validity tests when it is unable to reconfirm the drug or drug metabolite that was originally reported positive in a single specimen or primary (Bottle A) specimen. This policy ensures that every effort is made by the second laboratory to determine the reason for not reconfirming the presence of the drug or drug metabolite in a urine specimen. This proposed change is consistent with DOT regulation 49 CFR Part 40.

The Secretary is also proposing to add a new paragraph 2.4(k) and a new paragraph 2.4(l) which outline the criteria for retesting a specimen for adulterants and substitution.

The Secretary proposes to add new paragraphs 2.5 (d) through (j) that will establish specific quality control criteria and other procedural and test requirements for performing each individual validity test.

The Secretary proposes to revise paragraphs 2.6(a), (b), and (c) to clarify the qualifications and responsibilities of the MRO and to expand the MRO's duties to review adulteration, substitution, and invalid test results reported by the laboratory. These proposed changes are consistent with DOT regulation 49 CFR Part 40.

The Secretary proposes to revise paragraph 2.6(e) to ensure that a donor has the same right to challenge the accuracy of a positive, adulterated, or substituted result reported for a single specimen collection as for a split specimen collection. *See* paragraph 2.2(h)(6).

The Secretary proposes to revise paragraph 2.6(g) to ensure that an MRO will notify the designated HHS regulatory office that is responsible for the laboratory certification program when a second laboratory fails to reconfirm a non-negative result reported by a first laboratory. This proposed change is consistent with the notification requirement in DOT regulation 49 CFR Part 40.

Subpart C—Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies

The Secretary proposes to revise paragraph 3.2(b) to expand the performance testing program and the laboratory inspection program to include, respectively, performance testing samples to challenge the laboratories' ability to correctly perform validity tests and ensure that the validity testing procedures used by the laboratories are inspected and evaluated in a manner similar to that for all other laboratory operations.

Dated: June 28, 2001.

Joseph H. Autry III,

Acting Administrator, SAMHSA.

Dated: July 13, 2001.

Tommy G. Thompson,

Secretary.

The following amendments are proposed to the Mandatory Guidelines for Federal Workplace Drug Testing Programs published on June 9, 1994 (59 FR 29916):

Subpart A

Add the following definitions to Section 1.2:

Adulterated Specimen. A urine specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration.

Confirmatory Validity Test. A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Dilute Specimen. A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Initial Validity Test. The first test used to determine if a urine specimen is adulterated, diluted, or substituted.

Invalid Result. Refers to the result reported by a laboratory for a urine specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing testing or obtaining a valid drug test result.

Non-Negative Specimen. A urine specimen that is an adulterated, substituted, positive (for a drug or drug metabolite), or invalid specimen.

Oxidizing Adulterant. A substance that acts alone or in combination to oxidize drugs or drug metabolites that may prevent the detection of a drug, drug metabolite, or effects the reagents in either the initial or confirmatory drug test. Examples of these agents include, but are not limited to, nitrites, pyridinium chlorochromate, chromium(VI)/chromates, bleach, iodine/iodide, halogens, peroxidase, and hydrogen peroxide.

Substituted Specimen. A urine specimen with creatinine and specific gravity values that are so diminished or incongruent that they are not consistent with normal human urine.

Subpart B

1. In section 2.1, revise paragraphs (a)(1), (a)(2), and (a)(3) and insert a new paragraph (a)(4) to read as follows:

(1) Federal agency applicant and random drug testing programs shall, at a minimum, test urine specimens for marijuana and cocaine;

(2) Federal agency applicant and random drug testing programs may also test urine specimens for opiates, amphetamines, and phencyclidine;

(3) When conducting reasonable suspicion, post accident, or unsafe practice testing, a Federal agency may have a urine specimen tested for any drug listed in Schedule I or II of the CSA; and

(4) Federal agency drug testing programs shall have validity tests performed on urine specimens, as provided under section 2.4(g).

2. In section 2.1, revise paragraph (c) to read as follows:

(c) Urine specimens collected pursuant to Executive Order 12564, Public Law 100–71, and these Guidelines shall not be used for any other analysis or test unless authorized by an agency's drug-free workplace program.

3. In section 2.2, revise paragraph (h)(6) to read as follows:

(6) If the test of the primary (Bottle A) specimen is verified positive, adulterated, or substituted by the MRO, the MRO shall report the result to the agency. Only the donor may request through the MRO that the split (Bottle B) specimen be tested by a second certified laboratory to reconfirm the positive, adulterated, or substituted

result reported by the primary laboratory. The MRO shall honor the request if it is made within 72 hours after informing the donor that a positive, adulterated, or substituted result was being reported to the agency. The second laboratory shall test the split specimen in accordance with the requirements in section 2.4 pertaining to retesting for drugs, adulterants, or substitution.

4. In section 2.4, add a new paragraph (g) to read as follows:

(g) *Validity Testing.* (1) A certified laboratory:

(i) Shall determine the creatinine concentration on every specimen;

(ii) Shall determine the specific gravity on every specimen for which the creatinine concentration is less than 20 mg/dL;

(iii) Shall determine the pH on every specimen;

(iv) Shall perform validity test(s) for substances that are commonly known as oxidizing adulterants; and

(v) Shall perform additional validity tests when the following conditions are observed:

(A) Abnormal physical characteristics (e.g., color, odor, excessive foaming);

(B) Reactions or responses characteristic of an adulterant obtained during initial or confirmatory drug tests (e.g., non-recovery of standards, unusual response); or

(C) Possible unidentified interfering substance or adulterant.

The choice of additional validity tests is dependent on the observed indicators or characteristics as described in (v)(A) to (C).

(2) A urine specimen from a single specimen collection or the primary (Bottle A) specimen from a split specimen collection is reported adulterated when:

(i) The nitrite concentration is confirmed to be greater than or equal to 500 mcg/mL;

(ii) The pH is less than 3 or greater than or equal to 11;

(iii) The specimen contains an exogenous substance (i.e., a substance which is not a normal constituent of urine); or

(iv) The specimen contains an endogenous substance at a concentration greater than what is considered a normal physiological concentration.

(3) A urine specimen from a single specimen collection or the primary (Bottle A) specimen from a split specimen collection is reported substituted when both the initial and confirmatory creatinine tests and initial and confirmatory specific gravity tests have the following results:

(i) The creatinine concentration is less than 5 mg/dL; and

(ii) The specific gravity is less than 1.002 or greater than or equal to 1.020.

(4) A urine specimen from a single specimen collection or the primary (Bottle A) specimen from a split specimen collection is reported dilute when the initial or confirmatory tests have creatinine and specific gravity results of:

(i) The creatinine concentration is less than 20 mg/dL;

(ii) The specific gravity is less than 1.003; and

(iii) The creatinine and specific gravity results do not meet the criteria for a substituted or invalid result.

(5) A urine specimen from a single specimen collection or the primary (Bottle A) specimen from a split specimen collection is reported as an invalid result when:

(i) The laboratory detects an adulterant or interferent that it is unable to identify and the analysis has been performed on at least two separate aliquots of specimen;

(ii) The laboratory performs only one colorimetric surfactant test on at least two separate aliquots of the specimen;

(iii) The laboratory documents an interference with the GC/MS drug confirmation assay on at least two separate aliquots of the specimen;

(iv) The laboratory documents incongruent creatinine and specific gravity results (e.g., a creatinine less than 5 mg/dL on both the initial and confirmatory tests and a specific gravity greater than or equal to 1.002 and less than 1.020 on either the initial or confirmatory tests, the laboratory documents a specific gravity of 1.000 on both the initial and confirmatory tests and a creatinine greater than or equal to 5 mg/dL on either the initial or confirmatory tests, or a creatinine greater than or equal to 5 mg/dL and less than 20 mg/dL on either the initial and confirmatory tests and a specific gravity greater than or equal to 1.020 on both the initial and confirmatory tests); or

(v) The laboratory documents a pH less than 4 or greater than or equal to 10 on at least two separate aliquots of specimen and does not meet the criteria for an adulterated specimen.

5. In section 2.4, redesignate paragraphs (g) and (h) as (h) and (i).

6. In section 2.4, paragraph (i) is redesignated as (j) and revised to read as follows:

(j) *Retesting a Specimen for Drugs.* (1) A second laboratory shall use the laboratory's confirmatory drug test when retesting an aliquot of a single specimen or testing a split (Bottle B) specimen for the drug or drug metabolite that was reported positive in the single specimen or the primary (Bottle A) specimen by the first laboratory.

(2) Because some drugs or drug metabolites deteriorate during storage, the retest of an aliquot of a single specimen or the test of a split (Bottle B) specimen is not subject to a specific drug cutoff requirement, but must provide data sufficient to confirm the presence of the drug or metabolite.

(3) If the second laboratory fails to reconfirm the presence of the drug or drug metabolite that was reported by the first laboratory, the second laboratory shall conduct validity tests in an attempt to determine the reason for being unable to reconfirm the presence of the drug or drug metabolite. The second laboratory should conduct the same validity tests as it would conduct on a single specimen or a primary (Bottle A) specimen and reports those results to the MRO. If the second laboratory fails to determine that the aliquot of the single specimen or the split (Bottle B) specimen is adulterated or substituted, the MRO may request the second laboratory to transmit the aliquot or split (Bottle B) specimen to another HHS-certified laboratory for further testing.

7. In section 2.4, a new paragraph (k) is added to read as follows:

(k) *Retesting a Specimen for Adulterants.* (1) A second laboratory shall use one of the following criteria to reconfirm an adulterated result when retesting an aliquot of a single specimen or testing a split (Bottle B) specimen:

(i) pH shall be measured using the laboratory's confirmatory pH test with the appropriate cutoff (i.e., either less than 3 or greater than or equal to 11);

(ii) Nitrite shall be measured using the laboratory's confirmatory nitrite test with a cutoff concentration of greater than or equal to 500 mcg/mL; or

(iii) For adulterants without a specified cutoff (e.g., glutaraldehyde, surfactant, chromate, pyridine, halogens (such as, bleach, iodine), peroxidase, peroxide, other oxidizing agents), the laboratory shall use its confirmatory validity test at an established limit of detection (LOD)/limit of quantitation (LOQ) to reconfirm the presence of the adulterant.

(2) The second laboratory may only conduct the confirmatory validity test(s) needed to reconfirm the adulterant result reported by the primary laboratory.

8. In section 2.4, add a new paragraph (l) to read as follows:

(l) *Retesting a Specimen for Substitution.* (1) A second laboratory

shall use the following criteria to reconfirm a substituted result when retesting an aliquot of a single specimen or testing a split (Bottle B) specimen:

(i) The creatinine shall be measured using the laboratory's confirmatory creatinine test with a cutoff concentration of less than 5 mg/dL; and

(ii) The specific gravity shall be measured using the laboratory's confirmatory specific gravity test with the specified cutoffs of less than 1.002 or greater than or equal to 1.020.

(2) The second laboratory may only conduct the confirmatory validity test(s) needed to reconfirm the validity test result(s) reported by the primary laboratory.

9. In section 2.4, redesignate paragraphs (j) through (n) as (m) through (q).

10. In section 2.5, add a new paragraph (d) to read as follows:

(d) *Laboratory Quality Control Requirements for Validity Tests.* (1) A validity test result for a specimen shall be based on performing an initial (first) validity test on one aliquot and a confirmatory (second) validity test on a second aliquot. In some cases, both validity tests may use the same procedure, instrument, and/or method.

(2) The performance characteristics (e.g., accuracy, precision, LOD, LOQ, linearity, specificity) shall be documented for each validity test as appropriate.

(3) The LOD shall be determined for those adulterants that do not have a cutoff otherwise specified in these Guidelines (e.g., glutaraldehyde, halogens, chromates).

(4) Each analytical run of specimens for which an initial or confirmatory validity test is being performed shall include the appropriate calibrators and controls.

11. In section 2.5, add a new paragraph (e) to read as follows:

(e) *Specific requirements for measuring creatinine concentration.* (1) The creatinine concentration shall be measured to one decimal place on both the initial test and the confirmatory test.

(2) The initial creatinine test shall have a calibrator at either 5 mg/dL or at 20 mg/dL.

(3) The initial creatinine test shall have a control in the range of 2 mg/dL to 4 mg/dL, a control in the range of 5 mg/dL to 20 mg/dL, and a control in the range of 21 mg/dL to 25 mg/dL.

(4) The confirmatory creatinine test (performed on those specimens with a creatinine concentration less than 5 mg/dL on the initial test) shall have a calibrator at 5 mg/dL or at 20 mg/dL, a control in the range of 2 mg/dL to 4 mg/dL, and a control in the range of 6 mg/dL to 8 mg/dL.

12. In section 2.5, add a new paragraph (f) to read as follows:

(f) *Specific requirements for measuring specific gravity.* (1) The specific gravity shall be measured using a refractometer on both the initial and confirmatory specific gravity tests in order to report a specimen as substituted. Dilute specimens may, however, be reported based on refractometer results from the initial test. The refractometer shall be capable of reading in increments of at least 0.001 or less.

(2) The initial and confirmatory specific gravity tests shall have a calibrator at 1.000.

(3) The initial and confirmatory specific gravity tests shall have the following controls:

(i) For the cutoff of less than 1.002, one control at 1.001 and one control in the range of 1.002 to 1.010.

(ii) For the cutoff of greater than or equal to 1.020, one control greater than or equal to 1.020 but not greater than 1.025, and one control in the range of 1.015 to 1.020.

13. In section 2.5, add a new paragraph (g) to read as follows:

(g) *Specific requirements for measuring pH.* (1) Dipsticks, pH paper, and spectrophotometric/colorimetric tests that have a narrow dynamic range and lack the accuracy necessary to support the specified program cutoffs may be used only to determine if the initial and confirmatory pH validity tests must be performed.

(2) Spectrophotometric/colorimetric tests which have the dynamic range and accuracy necessary to support the specified program cutoffs and which are capable of measuring pH to one decimal place may be used as an initial test.

(3) A pH meter capable of measuring the pH to at least one decimal place may be used to perform the initial test and shall be used to perform the confirmatory test.

(4) The initial and confirmatory pH meter tests shall have the following controls:

(i) For the cutoff of less than 3, one control in the range of 2 to 2.9 and one control in the range of 3.1 to 4.

(ii) For the cutoff of greater than or equal to 11, one control in the range of 10 to 10.9 and one control in the range of 11.1 to 12.

(5) Spectrophotometric/colorimetric initial pH tests shall have the following controls:

(i) For the cutoff of less than 3, one control in the range of 2 to 2.9.

(ii) For the cutoff of greater than or equal to 11, one control in the range of 11.1 to 12.

14. In Section 2.5, add a new paragraph (h) to read as follows:

(h) *Specific requirements for performing oxidizing adulterant tests.* (1) At a minimum, the initial test(s) for oxidizing adulterants shall be capable of detecting nitrites, chromates, and halogens (e.g., bleach, iodine). The detection of these adulterants may be achieved by using either a general oxidizing adulterant test or by using specific tests for each category of these adulterants. If an initial test for oxidizing adulterants simultaneously tests for all oxidizing adulterants, the assay shall be able to detect at least the activity equivalent to 20 mcg/mL of chromate (chromium VI) or 200 mcg/mL of nitrite as an LOD. Each analytical run of specimens shall include a control without the compound of interest (i.e., a certified negative control) and at least one positive control with one of the compounds of interest at a concentration which exhibits an oxidizing activity above the documented LOD of the procedure.

(2) A confirmatory test for a specific oxidizing adulterant shall use a different analytical principle or chemical reaction than that used for the initial test unless a recognized reference method is used for both the initial and confirmatory tests. Each analytical run of specimens shall include a control without the compound of interest (i.e., a certified negative control) and a positive control with the compound of interest at a concentration above the documented LOD of the procedure.

15. In section 2.5, add a new paragraph (i) to read as follows:

(i) *Specific requirements for measuring the nitrite concentration.* (1) Dipsticks may only be used to determine if initial and confirmatory nitrite tests shall be performed.

(2) A nitrite specific initial test shall have a calibrator at the cutoff concentration, a negative control (i.e., certified negative urine), one control in the range of 200 mcg/mL to 500 mcg/mL, and one control in the range of 500 mcg/mL to 625 mcg/mL

(3) The confirmatory nitrite test shall have a calibrator at the cutoff concentration, a negative control (i.e., certified negative urine), one control in the range of 200 mcg/mL to 500 mcg/mL, and one control in the range of 500 mcg/mL to 625 mcg/mL.

16. In section 2.5, add a new paragraph (j) to read as follows:

(j) *Specific requirements for performing other validity tests (e.g., glutaraldehyde, surfactants).* (1) Each analytical run of specimens shall include a control without the compound of interest (i.e., a certified negative

control) and a positive control with the compound of interest at a concentration above the documented LOD of the procedure.

(2) A confirmatory test for a specific adulterant shall use a different analytical principle or chemical reaction than that used for the initial test unless a recognized reference method is used for both the initial and confirmatory tests.

(3) The initial and confirmatory tests for anionic surfactants shall be able to detect at least the activity equivalent to 100 mcg/mL of dodecylbenzene sulfonate.

17. In section 2.5, redesignate paragraph (d) as paragraph (k).

18. In section 2.6, rename and revise paragraph (a) to read as follows:

(a) *Medical Review Officer Qualifications.* (1) An MRO shall be a licensed physician (Doctor of Medicine or Osteopathy).

(2) An MRO shall be knowledgeable about and have clinical experience in controlled substance abuse disorders, detailed knowledge of alternative medical explanations for laboratory positive drug test results, and knowledge about issues relating to adulterated and substituted specimens as well as the possible medical causes of specimens having an invalid result.

(3) An MRO may be an employee of the agency or a contractor for the agency; however, an MRO shall not be an employee or agent of or have any financial interest in the laboratory for which the MRO is reviewing drug testing results. Additionally, an MRO shall not derive any financial benefit by having an agency use a specific drug testing laboratory or have any agreement with the laboratory that may be construed as a potential conflict of interest.

19. In section 2.6, rename and revise paragraph (b) to read as follows:

(b) *Medical Review Officer Review of Results.* An essential part of the drug testing program is the final review of each test result reported by a laboratory. A positive drug test result does not automatically identify a donor as an illegal drug user nor does an adulterated, substituted, or invalid test result automatically indicate that a donor has tampered with a specimen. The review of a non-negative test result shall be performed by the MRO before the result is transmitted to the agency's designated representative. Staff under the direct, personal supervision of the MRO may review and report a negative test result to the agency's designated representative. The MRO shall cancel the result for any agency's urine specimen that is not collected or tested in accordance with these Guidelines.

20. In section 2.6, rename and revise paragraph (c) to read as follows:

(c) *MRO Review of Positive, Adulterated, Substituted, or Invalid Test Results.* (1) Prior to making a final decision on a specimen that was reported positive, adulterated, substituted, or an invalid test result by the laboratory, the MRO shall give the donor an opportunity to explain the test result. In carrying out this responsibility, an MRO shall evaluate alternative medical explanations for the positive, adulterated, substituted, or invalid test result. This action should include conducting an interview with the donor, review of the donor's medical history, or review of any other biomedical factors. The MRO shall review medical records made available by the donor when a result could have resulted from taking legally prescribed medication. Following verification of the laboratory test result, the MRO reports the verified result to the agency's designated representative.

(2) When a laboratory reports an invalid result due to the possible presence of an unidentified interfering substance/adulterant, the MRO:

(i) May direct the laboratory to send the specimen to another HHS certified laboratory to possibly identify the interfering substance/adulterant;

(ii) Shall report the result as ''Test Cancelled'' and an immediate direct observed collection is not required if the explanation provided by the donor is acceptable; or

(iii) Shall report the result as ''Test Cancelled'' and indicates that an immediate direct observed collection is required if the explanation provided by the donor is not acceptable.

21. In section 2.6, rename and revise paragraph (e) to read as follows:

(e) *Donor Request to MRO for Retest.* (1) For a positive, adulterated, or substituted result reported on a single specimen or a primary (Bottle A) specimen, a donor may request through the MRO that an aliquot from the single specimen or the split (Bottle B) specimen be tested by a second HHS-certified laboratory to verify the result reported by the first laboratory.

(2) The donor has 72 hours (from the time the MRO notified the donor that his or her specimen was reported positive, adulterated, or substituted) to request a retest of an aliquot from the single specimen or to test the split (Bottle B) specimen.

22. In section 2.6, rename and revise paragraph (g) to read as follows:

(g) *Laboratory Result Not Reconfirmed by a Second Laboratory.* If an MRO finds that a laboratory has reported a test result (i.e., positive, adulterated, or substituted) that a second laboratory is not able to reconfirm in an aliquot from a single specimen collection or in the test of a split (Bottle B) specimen, the MRO shall report the specimen test results to the designated HHS regulatory office.

Subpart C

In section 3.2, revise paragraph (b) to read as follows:

(b) *Need to Set Standards; Inspections.* The ability to accurately determine the presence or absence of specific drugs/metabolites or to accurately determine the validity of a urine specimen is critical to achieving the goals of the testing program and to protect the rights of the Federal employees being tested. Standards have been set which laboratories engaged in Federal employee urine drug testing shall meet to achieve the required accuracy of test results. These laboratories will be evaluated by the Secretary or the Secretary's designee as defined in section 1.2 in accordance with these Guidelines. Applicant laboratories shall test three cycles of performance testing samples that challenge the laboratory's ability to correctly test for drugs and to correctly perform specimen validity tests. Applicant laboratories shall undergo an initial inspection and upon certification are also required to undergo a second inspection within 3 months after being certified. Certified laboratories are required to analyze quarterly performance testing samples that challenge the laboratories to correctly test for drugs and to correctly perform validity tests and to undergo periodic inspections.

[FR Doc. 01–20945 Filed 8–20–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal and Revision To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Information collection; request for comments.

SUMMARY: The collection of information described below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act of 1995.

Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Information Collection Clearance Officer of the U.S. Fish and Wildlife Service at the address and/or phone numbers listed below.

DATES: OMB has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, you must submit comments on or before September 20, 2001.

ADDRESSES: Send your comments and suggestions on specific requirements to the Office of Management and Budget, Attention: Department of the Interior Desk Officer, 725 17th Street, NW, Washington DC 20503, and to Rebecca Mullin, Collection Clearance Officer, U.S. Fish and Wildlife Service, MS–222–ARLSQ; 4401 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ren Lohoefener, Chief, Division of Consultation, Recovery, Habitat Conservation Plans, and State Grants, 703/358–2171

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (Service) has submitted the following information collection requirements to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. A previous 60 day notice on this information collection requirement was published in the **Federal Register** on May 1, 2001 (66 FR 21774–21776) inviting public comment. No comments were received as a result of this notice. Pursuant to this renewal, comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the 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. The information collections in this program will not be part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)).

Experimental populations established under section 10(j) of the Endangered Species Act of 1973 (ESA), as amended, require information collection and reporting to the Service. Section 9 of the ESA describes prohibited acts involving threatened or endangered species (16 U.S.C. section 1538 (a)(1)(B)). There are three major categories of information collected under the already issued experimental population rules. To date these categories have encompassed information relating to: (1) The general taking or removal of individuals of an experimental population, and (2) the authorized taking of individuals related to reports of depredation on livestock or pets caused by individuals that are part of an experimental population and (3) the collection of specimens or the recovery of dead animals that are part of an experimental population. These three categories have adequately described the types of information needed to evaluate the efficacy of the program and are expected to continue to accurately describe activities under the program.

Because individuals of designated experimental populations for species listed as threatened or endangered under the ESA are categorically protected, documentation of human-related mortalities, recovery of dead specimens and other types of take related to the status of experimental populations is important to the Service in order to monitor the success of reintroduction efforts, and recovery efforts in general. In order to minimize potential conflict with humans which could undermine recovery efforts, livestock depredations connected with experimental populations of listed species require prompt attention for purposes of determining the location, timing, and nature of the predatory behavior involved, accurate determination of the species responsible for a livestock kill, and the timely application of necessary control measures. The Service, in cooperation with the United States Department of Agriculture/Animal Plant Health Inspection Service Division of Wildlife Services or other cooperating State or Federal agencies, relies on prompt public reporting of depredation in order to resolve livestock related problems, and, therefore, a time sensitive requirement for reporting problems (generally within 24 hours) to the appropriate Service office is necessary. Information collection is achieved primarily by means of telephone calls by members of the public to Service offices specified in the individual rules (some may choose to use facsimile or electronic mail). Information required is limited to the identity of the caller, species involved, time and place of an incident, the type of incident, and circumstances related to the incident described. The vast majority of the information supplied to the Service as a result of experimental population regulations, is provided by cooperating State and Federal agencies under cooperative agreement. However, some of the information collected by the Service under the experimental population rules is provided by the public.

The collected information can be separated into three categories; general take or removal, depredation related take, and specimen collection. General take or removal information refers to human-related mortality including unintentional taking incidental to otherwise lawful activities (e.g. highway mortalities), take in defense of human life, take related to defense of property (if authorized), or take in the form of authorized harassment. Most contacts related to this type of information collection are in regard to sightings of experimental animals, or the inadvertent discovery of an injured or dead individual. Depredation related take refers to the reporting of take for management purposes, where livestock depredation has been documented or may include authorized harassment or lethal take of experimental animals in the act of attacking livestock. The information collection required by the rules for this type of take include the necessary follow-up reports after the Service has authorized harassment or lethal take of experimental animals in relation to confirmed instances of livestock depredation or in defense of human life. Specimen collection is for the purpose of documenting incidental or authorized scientific collection. Most of the information collection requirement for this take pertains primarily to the reporting of sightings of experimental population animals or the inadvertent discovery of an injured or dead individual. Information collection is required for necessary follow-up reports when the Service has authorized take of experimental animals for specimen collection.

The standard information collection includes the name, address, and phone number of the reporting party, location and time of the reported incident, species of experimental population involved. Reporting parties include, but are not limited to, individuals or households, farms, businesses, and other non-profit organizations. The reporting of specimen collections, recovery, or even the reporting of dead individuals from experimental populations is important to the Service's efforts in monitoring these individuals and for other scientific purposes. Federal agencies may not conduct or

sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The control numbers for this collection are 1018–0095 and 1018–0096.

Because the number of reports generated annually by the general public (rather than cooperating agencies or separately permitted individuals) under these rules is extremely small (far less than one report per year, per rule) and to assure thorough documentation of results, the Service is estimating the number of expected reports to assume a maximum number per year based on allowance for increased population size and public awareness of experimental populations.

The following existing experimental populations described under Title 50 of the Code of Federal Regulations contain information collection requirements:

50CFR section	Species (scientific name)	Type of reporting
17.84(c)	Red Wolf (*Canis rufus*)	Take in defense of human life, incidental take, take related to livestock depredation.
17.84(g)	Black footed ferret (*Mustela nigripes*)	Incidental take, specimen collection/reporting.
17.84(h)	Whooping crane (*Grus americana*)	Specimen collection/reporting.
17.84(i)	Gray wolf (*Canis lupus*)	Take in defense of human life, incidental take take related to livestock depredation.
17.84(j)	California condors (*Gymnogyps californianus*)	Specimen collection/reporting, incidental take.
17.84(k)	Mexican gray wolf (*Canus lupus baileyi*)	Take in defense of human life, incidental take, take related to livestock depredation.
17.84(l)	Grizzly bear (*Ursus horribilis*)	Take in defense of human life, incidental take take related to livestock depredation.

Future experimental populations that are established will require the same types of reports as listed above. This proposed information collection notice would also apply to future experimental populations that encompass the same information requirements outlined above to streamline the process.

Title: Endangered and Threatened Wildlife, 50 CFR 17.84, Experimental populations.

Burden Estimates for Reporting Requirements for Experimental Populations—Endangered Species:

Type of report	Number of respondents	Average time required per report	Total Annual burden
General take or removal [a]	20	15 minutes	5 hours.
Depredation related take [b]	22	15 minutes	5.5 hours.
Specimen collection [c]	20	15 minutes	5 hours.

(a) General take or removal includes human related mortality including unintentional taking incidental to otherwise lawful activities (e.g. highway mortalities), take in defense of human life, take related to defense of property (if authorized) or take in the form of authorized harassment.

(b) Depredation-related take is take for management purposes where livestock depredation has been documented and may include authorized harassment or authorized lethal take of experimental animals in the act of attacking livestock.

(c) Specimen collection, recovery, or reporting of dead individuals from experimental populations for documentation purposes or authorized scientific collection purposes.

Description of Respondents: Private individuals and households, businesses, not-for-profit organizations, and farms.

Number of Respondents: 62.

Frequency of Collection: On Occasion.

Total Annual Burden hours: 16.

Total Annual Responses: 62.

Total Annual Non-hour Cost Burden: 0.

Bureau form number: N/A.

Date: August 13, 2001.

Rebecca A. Mullin,

Information Collection Officer.

[FR Doc. 01–21070 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE–046447

Applicant: U.S. Geological Survey, CERC, Yankton Field Research Station, Yankton, South Dakota. Applicant requests a permit to take the Rio Grande silvery Minnow (*Hybognathus amarus*) in conjunction with spawning, propagating and conducting toxicological testing for scientific research and recovery purposes within New Mexico and Yankton, South Dakota.

Permit No. TE–819538

Applicant: Bureau of Land Management, Phoenix, Arizona. Applicant requests an amendment to an existing permit to add the Kearney's blue-star (*Amsonia kearneyana*) for collection in conjunction with scientific research and recovery purposes within Arizona.

Permit No. TE–046517

Applicant: USGS New Mexico Coop Fish and Wildlife Research Unit, Las Cruces, New Mexico. Applicant requests a permit for recovery purposes to conduct surveys for the Rio Grande silvery Minnow (*Hybognathus amarus*) in conjunction with propagation and scientific research at Las Cruces, New Mexico.

DATES: Written comments on these permit applications must be received on or before September 20, 2001.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248–6649; Fax (505) 248–6788.

Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. 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 the address above.

Steven M. Chambers,

Acting Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 01–21005 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–55–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: Susan Gardner, c/o U.S. Environmental Protection Agency, Cincinnati, OH, PRT–046123.

The applicant requests a permit to import samples obtained opportunistically from Mexico of salvaged carcasses of wild olive ridley sea turtle, *Lepidochelys olivacea*, and green sea turtle, *Chelonia mydas*, for the purposes 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 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: Steven A. Reedy, Terre Haute, IN, PRT–042516.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

Applicant: Steve Tennant, Terre Haute, IN, PRT–046729

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern 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: August 10, 2001.

Monica Farris,

Senior Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–21038 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Interim Strategy on Section 7 Consultations under the Endangered Species Act for Watercraft Access Projects in Florida That May Indirectly Affect the Florida Manatee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final interim strategy document.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the final interim strategy to comply with the provisions of the Endangered Species Act of 1973, as amended (ESA), on actions resulting in increased watercraft access in Florida. This final interim strategy represents our guidance regarding conservation measures that should be incorporated into watercraft access facility designs in order that, in some cases, projects would not likely cause incidental take of the Florida manatee (*Trichechus manatus*). This final interim strategy document does not address all of the ways in which a watercraft access project could have indirect effects which constitute an incidental take of manatees as defined by the ESA and Marine Mammal Protection Act (MMPA). Instead, this final interim strategy document focuses on one particular form of potential incidental take—the increased likelihood of manatee mortalities and injuries as a result of collisions with watercraft.

We believe that increased manatee speed zone enforcement is the primary conservation measure through which proposed projects could reduce the incidental take associated with watercraft collisions to an unlikely to occur level. Since publication of the draft interim strategy, we have become aware that the State of Florida has refocused its existing law enforcement efforts, as well as deployed additional law enforcement officers specifically to enforce manatee protection laws. The State's law enforcement initiative will result in a more effective means to address the indirect effects of watercraft access development on manatees. We, therefore, have modified the draft interim strategy to eliminate the contribution because the State has come forward with an initiative that resolves law enforcement issues in manatee waters and we have determined that the contribution portion of the interim strategy is no longer necessary. As appropriate, we considered and incorporated comments received during

the public review period in order to finalize the interim strategy.

ADDRESSES: Comments and materials received, as well as supporting documentation used in preparation of this document, will be available for public inspection, by appointment, during normal business hours at the South Florida Ecological Services Office, 1339 20th Street, Vero Beach, Florida 32960.

FOR FURTHER INFORMATION CONTACT: Kalani Cairns, telephone 561/562–3909 extension 240, facsimile 561/562–4288, or electronic mail at verobeach@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

A coalition of environmental and animal rights groups sued us and the U.S. Army Corps of Engineers (Corps)in January 2000. This lawsuit claimed that we were not fulfilling our obligations to protect the endangered Florida manatee under the ESA and the Marine Mammal Protection Act (MMPA). Settlement of the *Save the Manatee Club et al* v. *Ballard* case in January 2001 avoided unnecessary litigation. In the settlement, we agreed to a general time line for accomplishing specific tasks including publishing a revised manatee recovery plan; completing a review of and publishing our decision regarding federal designation of manatee protection areas; developing and publishing Incidental Take Regulations pursuant to the MMPA; and addressing shortfalls in law enforcement.

On March 14, 2001, we announced the availability of a draft interim strategy to comply with the provisions of the ESA on actions resulting in increased watercraft access in Florida (66 FR 14924). This draft interim strategy represented our guidance regarding conservation measures that could be incorporated into watercraft access facility designs such that, in some cases, projects would not likely cause incidental take of the Florida manatee. We called this document an ''interim'' strategy because it was designed to provide guidance relating to the indirect effects of watercraft access development on manatees only during the time period while incidental take regulations under the MMPA were being promulgated.

The draft interim strategy was not designed as a means to allow projects to circumvent formal consultation under section 7 of the ESA, which is required whenever a project is likely to adversely affect a federally-listed species or its critical habitat. We will continue to fulfill our section 7 consultation responsibilities regarding the Florida manatee. All determinations made during informal and formal consultation will be made in accordance with the ESA, our regulations implementing section 7 (50 CFR part 402), and our March 1998 Endangered Species Consultation Handbook.

The draft interim strategy document reflected our findings on the conditions under which we could conclude that a proposed watercraft access facility is unlikely to cause a ''take'' of manatees, as defined in the ESA § 3(18) and 50 CFR 17.3. It also included measures that an individual seeking permission to build a watercraft access facility could incorporate into the design of a project in order to reduce the likelihood of incidental take to a level of not likely to occur.

The draft interim strategy document did not authorize incidental take of manatees. Incidental take of manatees without authorization is unlawful and such authorization cannot occur until and unless we issue appropriate regulations under the MMPA. It is also important to stress that the draft interim strategy document did not address all of the ways in which a watercraft access project could have indirect effects which constitute an incidental take of manatees as defined by the ESA and MMPA. However, we must consider, as with all consultations, other direct and indirect effects to the manatee and its habitat, such as sea grasses.

ESA regulations require the Federal action agency to submit a description of the effects of the action on the listed species and/or its habitat and an analysis of any cumulative effects, a thorough analysis of the effects of the proposed action on manatees, manatee habitat, and manatee critical habitat.

Instead, the draft interim strategy document focused on one particular form of potential incidental take, that is, the increased likelihood of manatee mortalities and injuries as a result of collisions with watercraft. Watercraft-related mortality is the number one cause of human-related manatee deaths. Adult survival rates are one of the key criteria we consider in gauging success of our recovery efforts, and we believe that an increased presence of on-the-water speed zone enforcement is the most effective means to significantly impact overall adult manatee survival rates.

Previous Federal Action

On March 14, 2001, we published in the **Federal Register** (66 FR 14924) a notice of availability of a draft interim strategy on section 7 consultations under the ESA for watercraft access projects in Florida that may indirectly affect the Florida manatee. In addition, we held eight public meetings throughout Florida in the following locations—Miami on April 16, 2001; Fort Myers on April 17; St. Petersburg on April 18; Marco Island on April 19; Jacksonville on April 23; Daytona Beach on April 24; Melbourne on April 25; and West Palm Beach on April 26. The comment period closed on May 14, 2001.

In the **Federal Register** notice, we requested information, views, and opinions from the public related to this draft interim strategy, the supporting analyses, and proposed implementation. We contacted State and Federal agencies, Tribes, county governments, scientific organizations, and other interested parties and invited them to comment. In addition, we published notices announcing the public meetings and inviting public comments in the following newspapers— *Bradenton Herald, Charlotte Sun Herald, The Citizen* (Key West), *Citrus County Chronicle, Florida Today* (Brevard County), *Florida Times-Union* (Jacksonville), *Fort Pierce Tribune, Miami Herald, Naples Daily News, News Herald* (Panama City), *News Journal* (Daytona Beach), *News-Press* (Fort Myers), *Orlando Sentinel, Palatka Daily News, Palm Beach Daily Business Review, Palm Beach Daily News, Palm Beach Post, Press Journal* (Vero Beach), *Sarasota Herald-Tribune, South Florida Sun-Sentinel* (Ft. Lauderdale), *St. Augustine Record, St. Petersburg Times, Stuart News, Tallahassee Democrat,* and the *Tampa Tribune.*

Summary of Comments and Recommendations

We received approximately 2,000 written and oral comments pertinent to the draft interim strategy from elected officials, individuals, government agencies, private industries, and organizations. In general, public comment on the draft interim strategy was supportive of the law enforcement concept, but was not supportive of the process.

Following is a summary of the comments received. Comments of a similar nature have been grouped together.

Comment 1: The Florida Fish and Wildlife Conservation Commission (Commission) and other commenters were concerned that the draft interim strategy would not be effective in counties where comprehensive manatee speed zones are not yet established and that the draft interim strategy does not provide alternatives for applicants if additional speed zones cannot be established.

Response: We recognize that some counties do not have established manatee speed zones. In developing the draft interim strategy, we assessed regional manatee populations, manatee ecology, and watercraft-related manatee mortality to determine relative risk of watercraft-related manatee losses and have delineated three relative risk areas throughout Florida. We defined these risk areas (= counties) as high (averaged one or more watercraft-related manatee mortalities per year during the past ten years); medium (averaged less than one, but more than zero, watercraft-related manatee mortality per year during the same time period); and low (no documented watercraft-related mortality). In addition to these risk areas, we have developed a reach-by-reach analysis, outlined in the response to Comment 4, in evaluating a watercraft access project's effects on manatees.

Of the 14 Florida counties totally within high risk manatee areas, four counties currently have either no speed zones or only site-specific speed zones. Within these counties, where speed zones are currently lacking or inadequate, it must be shown that appropriate speed zones are in place in the areas anticipated to be affected by a project, speed zone signage is adequate throughout these areas, and that adequate levels of speed zone enforcement will occur throughout these areas before we can determine that a proposed watercraft access facility is unlikely to cause incidental take of manatees.

These types of determinations will need to be made on a case-by-case basis, that is, based on the specific circumstances and conservation needs present in the area. If it is determined that the existing speed zones are not adequate to reduce incidental take to an unlikely to occur level or that the speed zones will not be adequately enforced even with conservation measures incorporated into the project design, we would not be able to conclude that the project is not likely to incidentally take manatees through watercraft collisions.

Of the 15 counties in medium risk areas only, nine have countywide or site-specific speed zones. The remaining six medium risk counties have no enforceable speed zones. As with high risk counties, we will make case-by-case determinations as to whether a project is likely to contribute to the incidental take of manatees through watercraft collisions, in light of manatee mortality history and trends in the area, as well as any conservation measures incorporated into the project's design. In those areas where speed reduction is necessary yet no speed zones currently exist and/or speed zones will not be sufficiently enforced to render watercraft collisions in the affected area unlikely to occur (despite any conservation measures incorporated into the project's design), we believe that we would not be able to concur with a determination that the project is not likely to adversely affect manatees.

Comment 2: The Commission and other commenters were also concerned that the draft interim strategy does not consider land use decisions, local Manatee Protection Plans, or other state or local conservation laws as solutions to reducing watercraft-related manatee mortality.

Response: We consider land use decisions the responsibility of local governments and not the Federal government. Although we do consider land use decisions, local Manatee Protection Plans, and other state or local conservation laws, in the section 7 process in evaluating a watercraft access project's effects on manatees, these local land planning tools may or may not affect the final outcome of a biological rationale presented in a Service concurrence letter or biological opinion. While land use decisions are not the responsibility of the Federal government, we recognize the right of local and State governments to be more restrictive in imposing measures for manatee conservation, and recommend that proposed projects comply with such measures. The draft interim strategy provided a way to guide projects to include offsetting measures, specifically increased law enforcement, that applicants could use to reduce the likelihood of incidental take of manatees. Instead of concentrating on local decisions and law, the focus of the draft interim strategy was on appropriately located manatee speed zones that are adequately posted, coupled with sufficient levels of law enforcement in place before the project moved forward.

Comment 3: The Commission and other commenters believe the draft interim strategy encourages a piecemeal approach to establishing and posting manatee speed zones based on the needs of a single project rather than on an ecosystem level.

Response: Contrary to a piecemeal approach, we viewed the draft interim strategy as a statewide approach to evaluating the potential effects of new watercraft access projects on manatees and their habitat. The draft interim strategy did not authorize incidental take of manatees and incidental take is unlawful without authorization and such authorization cannot occur without appropriate regulations under MMPA. The draft interim strategy provided conservation measures, primarily increased manatee speed zone enforcement *statewide*, to ensure that the incidental take of manatees associated with new watercraft access facilities was reduced to an unlikely to occur level. In addition, the draft interim strategy established four prerequisites (adequate speed zone designations, signage, and on-the-water enforcement, including the requirement that such measures be in place prior to project implementation) which must be evaluated prior to concluding that incidental take was unlikely to occur.

Multi-slip projects are evaluated on a case-by-case basis in medium and high risk counties to determine whether a proposed watercraft project is likely to result in the incidental take of manatees or whether specific conditions in the project area as well as measures incorporated into the project's design are such that we can reasonably conclude that the project is not likely to result in the incidental take of manatees.

Overall, we believe that the State and other law enforcement initiatives as well as the continuing analysis (as new information becomes available) to evaluate the adequacy of manatee speed zones will result in an effective statewide means to address the indirect effects referenced by the draft interim strategy on manatees on a landscape-scale.

Comment 4: The Commission and other commenters stated that the draft interim strategy does not identify a method or criteria for determining the adequacy of a speed zone, signage, and/or enforcement.

Response: While the draft interim strategy does not set forth criteria for determining the adequacy of speed zone designations, signage and/or enforcement, we do include the basis for our determinations in our concurrence letters and biological opinions to the Army Corps of Engineers' (Corps). In making these determinations, we rely on the best scientific and commercial data available, including manatee mortality data for a particular area, potential impacts to manatee habitat such as seagrasses, information regarding boater compliance with speed zones in the area, the anticipated beneficial effect of any conservation measures incorporated into the project's design, including the degree to which such measures are anticipated to increase speed zone enforcement in the area, etc. We will continue to rely on these and other site-specific criteria such as watercraft and manatee travel patterns, as available, to make determinations on the adequacy of

speed zones, signage and/or enforcement.

Recognizing the responsibilities and commitments by both agencies on many overlapping issues regarding the manatee, we are currently working with the Commission and local governments to ensure speed zone placement, signage, and enforcement are or will be appropriate and adequate. While manatee mortality in some areas has been high, we expect that the State's law enforcement initiative will help reduce incidental take as the result of watercraft collisions.

We accept this comment as a valid concern and have modified the interim strategy to incorporate manatee speed zone criteria in the Reach-by-Reach analysis already conducted by us as well as any new information that becomes available during project review.

To analyze the effects of watercraft access projects on manatees, we reviewed the baseline conditions for each of the manatee subpopulations by county and by ''reach'' based on a combination of information available to us including the Corps' Reach Characterization Analysis Geographic Information System (GIS) database. We used counties as a basic geographic analysis area because many factors important to manatee protection are provided at the county level. Manatee Protection Plans are produced by counties, manatee speed zones are designated by the State with county participation or by counties on a county level, and county sheriff's departments provide enforcement within county boundaries. These factors make county-by-county and reach-by-reach review the most logical and manageable way to analyze data and provide recommended courses of action. This county-by-county and reach-by-reach review approach provides a more holistic evaluation of speed zones than a piecemeal project-by-project review.

To evaluate the adequacy of existing manatee speed zones throughout Florida, we used information from the Corps' Reach Characterization Analysis combined with the most current information available regarding manatee use, manatee habitat, manatee mortality and harassment. The Corps compiled existing data relevant to the evaluation of the potential effects of watercraft access projects on manatees. The information contained in the Reach Characterization Analysis included manatee use data such as aerial surveys and radio telemetry; manatee habitat characteristics such as warmwater sites, seagrass distribution, and bathymetry; human use characteristics such as relative dock densities, boat densities, and navigation channels; and existing manatee protection measures (boating speed zones). Throughout Florida, the Corps defined 80 ''reaches'' based on manatee use, manatee habitat characteristics, and human use characteristics. The Corps compiled this information into its GIS database.

In some areas, we feel that changes of the Corps reach boundaries would provide a better characterization of the effects of regulated activities on manatees, and our analysis reflects these recommendations. We view the Reach Characterization Analysis as a dynamic process, and will continue to recommend changes to Corps reaches based on new information regarding manatees, boating activities, and the interaction of manatees and boating that affect manatees. To ensure the use of the best scientific and commercial data available, we supplemented the Reach Characterization Analysis information with 2000 and 2001 manatee mortality data from the Florida Marine Research Institute, and other information such as information from the Service's Division of Law Enforcement regarding the adequacy of speed zone signage in certain areas.

To reduce the likelihood of incidental take associated with any new multi-slip watercraft access projects, the Interim Strategy provides four prerequisites, that: (1) Adequate speed zones must exist in areas anticipated to have increased watercraft traffic as a result of the proposed development; (2) signage is adequate to ensure that boaters are aware of the existing speed zones; (3) enforcement in the vicinity of the proposed development is, or with project conservation measures will be, sufficient to prevent watercraft collisions with manatees; and (4) these measures be in place prior to implementation of the project.

In reviewing the baseline, we looked at existing speed zones, levels of enforcement, manatee aggregation areas, warmwater refugia, freshwater sources, seagrass beds, and other biological factors to determine if speed zones or levels of enforcement were sufficient to minimize the risk of manatee mortality. We focused on manatee mortality because this is the only form of take for which quantitative data are available. We assume that the available information regarding watercraft-related manatee mortality is a reliable indicator of other forms of incidental take, including injury and harassment. In areas where speed zones are appropriately designated and signed, increased enforcement provided by the State's Law Enforcement Initiative and other law enforcement efforts would improve compliance with manatee speed zones, reducing risk of watercraft collisions with manatees. The decrease in manatee-watercraft collisions would result in a stable or decreasing trend in watercraft-related manatee mortality.

Speed zones are designated by the Commission under Rule and published in the Florida Administrative Code (FAC). Types of zones designated include motorboat no entry zones (year-round), idle speed zones (year-round), idle speed zones (November 15 through April 30), slow speed zones (year-round), slow speed zones (November 15 through April 30), and maximum 25 mph/slow speed buffer zones (year-round). In addition, some speed zones include or specifically exclude navigational channels in the vicinity. In areas where manatee mortality has decreased or been stable since manatee speed zones were designated, signed, and enforced, we assumed that designation of manatee speed zones will protect manatees as required in prerequisite 1 above.

Speed zone enforcement cannot be implemented in an area unless the zones are well marked and the regulatory codes authorizing the zones are also on the signs (FAC 2001). The Florida Department of Environmental Protection (FDEP) and Florida Inland Navigational District (FIND) or West Coast Inland Navigation District (WCIND) provide installation and maintenance of speed zone signs. Manatee speed zone areas are inspected annually or after storm events by FIND or WCIND to ensure that adequate marking is present, and that no hazards to navigation exist. In areas where FIND, WCIND, the State, and/or counties regularly monitor and replace signs, we assumed that manatee speed zone signage will protect manatees as required in prerequisite 2 above.

Data from the Commission's Division of Law Enforcement were used to assess a per-slip level of current law enforcement to boater ratio in waters within Florida in the Interim Strategy. The estimated ratio of law enforcement officers to registered watercraft in Florida is one enforcement officer per 1,356 watercraft. Dividing the total number of annual work hours (2,080) by registered watercraft (1,356) yields a current average of 1.50 hours of enforcement per registered watercraft per year. This figure represents an index of the level of law enforcement potentially available throughout the State and does not reflect the total amount of law enforcement at a particular location. Enforcement of posted speed zones may be provided by

the Service, the State, county sheriff's officers, city or other municipalities, and other entities with on-the-water enforcement capabilities such as the National Marine Sanctuaries Squad. The Coast Guard and the Service also provide speed zone enforcement through special task force events. We calculated the amount of law enforcement provided by the State's Law Enforcement Initiative and the Corps' estimated number of slips likely to be permitted by county to ensure that an amount of enforcement per slip currently provided by all law enforcement efforts is consistent with the Interim Strategy. The State's Initiative results in an up-front, permanent commitment of officers; administration is simplified and carried out by the State. Based on our analysis, the State's Initiative will cover approximately 370,000 watercraft access projects (= boat slips) over 32 coastal counties where manatees occur for the next ten years. On average, the construction of approximately 5,000 slips is authorized annually in Florida's waters. The State's Initiative provides for a significantly higher level of on-the-water manatee protection and law enforcement than what would be provided under our draft interim strategy. In Corps reaches where the State's law enforcement initiative and other on-the-water enforcement exceed the per slip enforcement in the Interim Strategy, we assumed speed zone law enforcement will protect manatees as required in prerequisites 3 and 4 above.

We reviewed all of the above information to evaluate speed zone designation, signage, and enforcement currently in place for the various reaches defined by the Corps. During our review, we located areas where current speed zones are either non-existent or inappropriately designated to minimize risk of manatee-watercraft collisions as areas with increasing and/or ongoing mortality. Additional enforcement in such areas would not decrease take to a ''not likely to occur'' level and these were identified as ''areas with inadequate protection.'' Implementation of additional speed zones, signage, and/or enforcement were determined to be necessary if:

1. Manatee mortality data indicate on-going recovery of watercraft-related mortality manatee carcasses within the reach within the last 10 years, particularly in years since speed zones and signs have been in place with enforcement;

2. Speed zones, signage, and/or enforcement levels are not provided to assume manatees are protected as described above; and/or

3. Available information indicate ongoing mortality and harassment of manatees at warmwater sites.

''Areas with inadequate protection'' were examined per the above criteria, to determine whether the deficiencies affected entire reaches or portion of reaches in question. For example, some areas that currently lack manatee speed zones, signage, and enforcement affect only a portion of the Corps reach and are not located along primary watercraft travel corridors. In such instances, we concluded that increases in boat traffic within certain areas would adversely affect manatees and identified that portion of the reach as an ''area with inadequate protection.''

Conversely, other areas currently lack adequate manatee speed zones, signage, and enforcement over entire reaches, and/or are located along primary watercraft travel corridors. In these areas, we reasonably assumed a high likelihood that increases in watercraft access anywhere within the reach or reaches would increase boat traffic, increasing risks to manatees, and designated the reach or reaches as an ''area with inadequate protection.''

We will continue to review new multi-slip watercraft access projects in medium and high risk counties. Additional watercraft access projects in ''areas with inadequate protection'' may result in take of manatees and cannot be consistent with the final Interim Strategy. We believe that these projects would require separate review and potential authorization for incidental take under the MMPA. Should appropriate speed zones be created or modified to provide additional protection for manatees, the designation of an reach or portion of a reach as an ''area with inadequate protection'' could be modified to reflect a change in the baseline.

Comment 5: The Commission and other commenters disagreed with the draft interim strategy, in which the Corps and/or the applicant is required to perform the analysis on the effects of a watercraft access project on the manatee. It was recommended by one commenter that the Service should proactively solicit the comments and views of other experts who do not share the project applicant's self-interest in project approval, e.g., the Commission, Save the Manatee Club and other conservation groups, the Marine Mammal Commission, and independent scientists.

Response: ESA regulations require the Federal action agency to submit a description of the effects of the action on the listed species and/or its habitat and an analysis of any cumulative effects. The Corps may require the applicant to provide the biological evaluation. It is our responsibility to determine if all the information required by the regulations has been provided by the Federal action agency and whether the information includes the best scientific and commercial data available.

We have worked closely with the groups stated above, as well as other environmental and industry groups, that do not share the project applicant's interests. We typically coordinate with state agencies in our review of individual projects. In addition, we frequently solicit the comments and advice of conservation organizations, state and local governments, and other experts on broad manatee conservation issues (e.g., recovery plan). We will not always be able to resolve issues from such diverse groups to everyone's satisfaction. Therefore, we will continue to obtain and consider the best scientific and commercial data available in our reviews and evaluations.

Comment 6: Another commenter listed several concerns with the draft interim strategy which are discussed in the following paragraphs.

A. The first concern emphasizes that incidental take of manatees cannot occur until and unless we promulgate MMPA rules, and that the draft interim strategy is not and cannot be a mechanism for authorizing take. The commenter further states that the draft interim strategy must be designed and must be implemented in a fashion which ensures that no Corps-permitted project proceeds which may take manatees in any fashion. The commenter agreed with the Commission that the proposed strategy encourages piecemeal approaches to establishing and posting speed zones based on the needs of a single development rather than ecosystem level needs.

Response: We have addressed these concerns in our responses to Comments 3 and 4 above.

B. The second concern is that the draft interim strategy should not be used as a means to bypass formal consultation. The commenter states that since adoption of the draft interim strategy, we have bypassed formal consultation on more than 100 Corps permits, and have not entered formal consultation on any project, and that we should abide by the four basic prerequisites set forth in the draft interim strategy for finding that incidental take from watercraft collisions is unlikely to occur as a result of a particular project.

Response: The draft interim strategy was not designed to bypass formal

consultation. Using the manatee key to guide its effect determinations, the Corps has requested and we have completed consultation for a number of watercraft access projects that incorporated conservation measures consistent with the draft interim strategy in areas that meet the four prerequisites. Consultation is completed informally for projects that are ''may affect, but not likely to adversely affect'' with issuance of the Service's concurrence letter. Each of our concurrence letters addresses the four prerequisites which must be satisfied for us to determine that incidental take is unlikely to occur as a result of the project. The ultimate decision on whether a permit will be issued for a project after consultation with the Service rests entirely with the Corps.

In those cases when the four prerequisites cannot be met in an area or when incorporation of conservation measures into project designs will not reduce the potential for adverse effects including incidental take to an unlikely to occur level, consultation cannot be completed informally, and formal consultation will be required. We have also addressed these concerns in our response to Comments 3 and 4 above.

C. The third concern is that we should make clear in the draft interim strategy that we will, in every case, analyze whether a proposed project is inconsistent with siting policies embodied in local Manatee Protection Plans or other state and local conservation laws, and most important, will not give concurrence on any project which is inconsistent with any such plan or ordinance designed to protect manatees. The commenter further states that, in areas of high manatee mortality and injury, water access projects should not be permitted to proceed until and unless effective ''take reduction'' strategies have been adopted, implemented, and are producing empirical effects in terms of actual reductions of manatee deaths and injuries.

Response: We addressed comments involving local Manatee Protection Plans and other State or local conservation laws under Comment 2 above. Regarding areas that support manatee concentrations coupled with high manatee mortality, we emphasize that, in all probability, the incorporation of conservation measures into a project design will not reduce the likelihood of incidental take to an unlikely to occur level. Hence, we cannot concur that the project is unlikely to result in incidental take of manatees.

We believe that the draft interim strategy, which identified the four prerequisites and the need for increased law enforcement to reduce incidental take to an unlikely to occur level, was a proactive take reduction strategy. As presented in the response to Comment 4, we evaluated areas that are experiencing a consistently high level of manatee mortality and injuries and identified these areas as ''Areas of Inadequate Protection''. In some ''Areas of Inadequate Protection'' areas, where speed zone designation, signage, and/or enforcement are inadequate, addressing one or all of these factors may result in ''take reduction.'' In other words, the four prerequisites and the State's increased law enforcement initiative represent what we believe is a ''take reduction strategy.'' In other ''Areas of Inadequate Protection'', where manatee and watercraft use are consistently high, there may be no strategies to reduce take and incidental take cannot be evaluated under ESA until and unless special regulations are promulgated under MMPA.

The draft interim strategy also addressed the need and provided for continual program monitoring and evaluation, and called for changes if the increased law enforcement was not resulting in reduced manatee-watercraft collisions.

D. The fourth concern relates to the formula used to calculate the amount of increased law enforcement that a new watercraft access project will have to provide in order for the project to not likely result in incidental take of manatees. The commenter states that there is no scientific evidence to support the formula. The commenter further states that the Service's approach omits, but should include considerations of ''carrying capacity'' (the maximum number of boats that can be permitted in any habitat used by manatees without making adverse effects to the species inevitable, irrespective of the number of speed zones and amount of enforcement taking place).

Response: We explained in the draft interim strategy the basis for the formula used to calculate the amount of increased law enforcement that a new watercraft access project would provide in the ''Determining the amount of increased law enforcement hours necessary'' section of the draft interim strategy. We explained that the current statewide average of Commission officers to registered watercraft plus an additional ten percent was the basis for the formula. The rationale was that new watercraft access facilities must provide for the maintenance of the current law enforcement to watercraft ratio plus ten percent in order to assure that manatee mortality would not increase due to the increase of new watercraft resulting in less enforcement available per watercraft. We agree that there may be other methods to calculate ''adequate'' increased enforcement, but none have been offered. We have encouraged any entity with such information to provide that information and to work with the Service.

With regard to the ''[boat] carrying capacity'' issue, we do not know of a formula to calculate the maximum number of boats that can be permitted in any habitat used by manatees without making adverse effects to the species inevitable, irrespective of the number of speed zones and amount of enforcement taking place. There are currently areas with higher watercraft and manatee use that experience lower watercraft-related manatee mortality, and other areas with lower watercraft and manatee use that experience higher watercraft-related manatee mortality. We encourage individuals or organizations who have information or have developed such a ''[boat] carrying capacity'' formula to work with the Service. We believe that watercraft operating in a safe and legal manner in waters inhabited by manatees, particularly in manatee speed zones, are unlikely to result in the take of manatees. We support and encourage compliance with all local zoning laws or Manatee Protection Plans which protect manatees.

Comment 7: Several commenters thought the draft interim strategy applied to existing watercraft access facilities or to the replacement or repair of existing facilities or to non-watercraft access facilities such as fishing piers.

Response: We clarified during the public meetings and in the final interim strategy that the draft interim strategy applied only to new facilities that facilitate watercraft access to Florida's waters and did not apply to existing structures or their replacement or repair.

Comment 8: Several commenters challenged the Service's involvement with the Corps' regulatory process in permitting new watercraft access projects.

Response: Section 7(a)(2) of the ESA states that any Federal agency shall, in consultation with us, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of designated critical habitat. When the Corps processes permit applications for watercraft access projects, they are required to consult with us for potential effects to manatees and their habitats.

Comment 9: Several commenters asked if there were areas where the

Corps may not issue permits to construct new watercraft access facilities.

Response: In addition to the reach-by-reach analysis outlined in the response to Comment 4 above, there are consultation tools, in particular the Corps' revised manatee key and associated maps, which will identify areas where additional actions may be needed in order for the Corps to issue permits for new multi-slip watercraft access facilities. The maps are our current interpretation of the criteria used to make a determination on the individual reaches and will be reviewed and revised periodically. As the maps are revised, they will be available at: *http://verobeach.fws.gov/manatee_issues/interim_strategy.htm*.

The manatee key identifies areas with ''In-water Construction Windows'' and ''Areas with Inadequate Protection.'' In some of these areas, permits may be issued with special conditions that remove the likelihood of take of manatees. For example, a new facility proposed within an In-Water Construction Window area could be permitted only if construction was proposed outside of the window.

Areas with Inadequate Protection, fall into one of two categories; designation based on a lack of one of the four prerequisites, or designation because the prerequisites will not reduce incidental take to an unlikely to occur level. If inadequate speed zones, signage, or enforcement are corrected for areas designated because of a deficiency, the Corps could initiate consultation with us. If consultation is initiated, we will evaluate the specific conditions in an area expected to be affected by the project, as well as the project design, in determining whether the project is likely to result in incidental take due to watercraft collisions. The four basic prerequisites necessary to ensure that incidental take is unlikely to occur are: (1) Adequate speed zones exist in the areas reasonably anticipated to have increased watercraft traffic as a result of the project; (2) signage in these areas is adequate to ensure that boaters are aware of speed zones; (3) speed zone enforcement in these areas sufficient to prevent watercraft collisions from occurring as a result of the project; and (4) these measures must be in place prior to project implementation. If these prerequisites are met, we may find that a new facility would be unlikely to result in the incidental take of manatees. In areas designated because the four prerequisites will not reduce incidental take to an unlikely to occur level, we cannot provide an incidental take statement to the Corps for a facility under ESA until and unless incidental take is authorized under MMPA.

A special regulation promulgated under MMPA could authorize incidental take that has a negligible effect on reproduction. We would then consider this information to determine if incidental take could be authorized under ESA in areas currently designated because the four prerequisites will not reduce incidental take to an unlikely to occur level. An Advance Notice of Proposed Rulemaking was published in the **Federal Register** on March 12, 2001 (Volume 66, Number 48, pages 14352–14354) advising the public we are initiating our process for developing these Incidental Take Regulations. Public comments were requested and received on the advance notice process at that time. There will also be opportunity for public comment on the proposed regulations once they are formulated and published in the **Federal Register**, but before they are finalized.

If we anticipate that incidental take may occur as a result of a project, we must determine whether or not that incidental take is likely to jeopardize the continued existence of the species. For such projects which we determine will not result in jeopardy or adverse modification of critical habitat, yet in our opinion are likely to result in the incidental take of manatees, we intend to exercise our authority under section 7 of the ESA to issue biological opinions that make clear that the project may contribute to incidental take of manatees and that incidental take may not be exempted in the absence of MMPA incidental take regulations. Subsequently, it is the Corps' responsibility to decide whether or not to issue a permit for a particular project.

Comment 10: Several commenters asked why the draft interim strategy wasn't considering all forms of incidental take.

Response: In determining whether to concur with a not likely to adversely affect determination, or in issuing a biological opinion addressing the potential for incidental take, we must consider all potential forms of incidental take. Watercraft-related mortality is the most significant factor that we can effectively address at this time to aid in manatee recovery. The purpose of the interim strategy is to focus on the potential for manatee-watercraft collisions, but we must and will continue to consider all other forms of potential effects to manatees in the consultation process.

Comment 11: Several commenters felt that the draft interim strategy was inequitable in that new watercraft access projects were responsible for additional law enforcement rather than distributing the cost of increased enforcement among all boaters. On this issue, a number of commenters suggested alternatives for more equitable means of providing increased law enforcement, such as increased vessel registration fees.

Response: We believe that increased manatee speed zone enforcement is the primary conservation measure through which proposed projects could reduce the incidental take associated with watercraft collisions to an unlikely to occur level. We recognize that increased vessel registration fees may be another way to accomplish this goal. At the time, the draft interim strategy represented the only mechanism by which some applicants could move forward with their projects in the absence of incidental take regulations. However, the State has come forward with an initiative that has significantly improved law enforcement in manatee waters and we have determined that the contribution portion of the interim strategy is no longer necessary.

Comment 12: Other commenters questioned whether the contributions were sufficient to adequately fund increased law enforcement.

Response: Based on our analysis of existing levels of law enforcement provided by the State and the amount of increased enforcement needed to ensure that a new watercraft access project would not likely cause the incidental take of manatees, we believe that the contribution amount is sufficient to provide the increase in on the water enforcement. With the State's law enforcement initiative, we have determined that the contribution portion of the interim strategy is no longer necessary.

Comment 13: A number of commenters stated that the draft interim strategy was a form of extortion in that funds were required in proposing an appropriate conservation measure as part of an applicant's project design.

Response: We believe that the increased presence of on-the-water enforcement is the single most effective means to accomplishing manatee conservation. To that end, we developed two voluntary options by which increased enforcement could be provided as part of an applicant's project design: one option was the establishment of an agreement or contract with a local law enforcement agency and the other option was for applicants to contribute to the Manatee Conservation Fund. Without either of these two options incorporated as part of a project's design, it was our opinion

that the project was likely to result in the incidental take of manatees. Because manatees are also protected by the MMPA, we cannot exempt incidental take for manatees under ESA, until and unless incidental take regulations are promulgated under MMPA. However, with the State's Law Enforcement Initiative, we have determined that the contribution portion of the interim strategy is no longer necessary.

Comment 14: Several commenters believed that the draft interim strategy requires the preparation of an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act.

Response: This action is categorically excluded in accordance with NEPA requirements [per 516 DM 6, Appendix 1.4(A)(3)].

Comment 15: Several commenters questioned why the draft interim strategy was needed since the manatee population was increasing.

Response: We are pleased with this year's manatee count and see these numbers as indicative of the success of many long-term conservation efforts. However, collisions with watercraft continue to impact manatees. Whether or not the manatee population grows or declines is primarily dependent on the survival rate of adult manatees. The interim strategy is designed to help ensure sufficient adult survival and aid in recovery of this species. The State's Law Enforcement Initiative will also help in reaching these goals.

Comment 16: Several commenters asked if the increase in manatee mortality was the reason for the draft interim strategy.

Response: Watercraft-related mortality is the number one cause of human-related deaths. The interim strategy is our guidance to any person or organization regarding conservation measures that could be incorporated into watercraft access facility designs such that, in some cases, projects would not likely cause ''incidental take'' of the manatee. The strategy is defined as an ''interim'' strategy because it is designed to provide guidance relating to the indirect effects of watercraft access projects on manatees only during the time period while ''incidental take'' regulations under MMPA are being developed. The draft interim strategy would have offered us an opportunity to implement sound, effective risk-reduction management actions, such as increased manatee speed zone enforcement, during the time period while incidental take regulations under the MMPA are being promulgated. Adult survival rates are one of the key criteria we consider in gauging success of our recovery efforts. Increased manatee speed zone enforcement also is expected to have a significant impact on overall adult manatee survival rates.

Comment 17: Many commenters asked, if 25 percent of manatee mortality is human-related, why the Service is not doing anything to reduce the 75 percent of manatee mortality that was not human-related.

Response: We are aware that the largest percentage of manatee deaths can be attributed to other categories such as natural or perinatal or even undetermined causes. We also recognize that these types of manatee mortality cannot be directly controlled by agency actions. Indeed, included in the remaining 75 percent are deaths due to natural causes. However, one effective approach to recover the manatee is to control human-related mortality. See the response to Comment 18 below.

Comment 18: Several commenters asked what is the long-term strategy for manatee conservation.

Response: We believe that manatee speed zone enforcement is the most effective means of conserving the manatee by reducing adult mortality. However, it is only part of the total recovery needs of the manatee. Numerous conservation activities are ongoing to recover the manatee, such as implementation of the recovery plan and any subsequent modifications, development of incidental take regulations under the MMPA, review of federally-designated manatee sanctuaries and refuges, adjustment of speed zone locations, assessment of deregulation of power plants as warmwater refugia, and assessment of the effectiveness of law enforcement and public awareness efforts in decreasing or eliminating watercraft-related manatee mortality.

State of Florida's Manatee Law Enforcement Initiative

For several months, we have coordinated with the Governor's Office regarding the State's participation in manatee protection measures. Governor Jeb Bush informed us in writing on May 29, 2001, that the 2001 Florida Legislature approved 25 additional law enforcement positions to be deployed throughout those coastal counties where manatees are at a high risk of death or injury due to human-related causes. In addition to these new officers, Governor Bush's letter also states that 23 desk-assigned officers will be redeployed to water patrol activities. The Governor's letter further states that, for 2001, increased manatee speed zone enforcement efforts by the State resulted in reversing a 3-year trend of increasing manatee deaths due to watercraft collisions for the same period prior to 2001. Coupled with the increase in enforcement, the Governor and the Cabinet voted on July 25, 2000, not to approve new or expanding marina facilities in those counties that do not have an approved Manatee Protection Plan. The letter concluded with the Governor requesting us to withdraw the draft interim strategy in light of the fact that additional and adequate enforcement necessary to protect manatees has been provided by the State of Florida.

Additional discussions with the Governor's Office indicate that the Commission has reassigned 23 law enforcement officers and hired 25 additional officers to increase and improve enforcement of manatee protection laws, including manatee speed zones. The Commission has also reorganized 313 existing law enforcement officers in addition to the increase in officers listed above to refocus a portion of their activities toward manatee protection. Furthermore, the State has allocated $2 million for those officers willing to work overtime, which translates into additional hours of manatee protection. Finally, the State is also considering adding a number of new officers for manatee protection next year. Hence, the State proposed that we withdraw the draft interim strategy because the increase in law enforcement that would be provided in accordance with its implementation has been provided for up-front by the State's Initiative.

Final Interim Strategy

Introduction

This final interim strategy represents our guidance regarding conservation measures that should be incorporated into watercraft access facility designs in order that, in some cases, projects would not likely cause incidental take of the Florida manatee.

We believe that the State's Initiative removes the need for implementation of the contributions for increased law enforcement. Therefore, we have removed the contributions for law enforcement from our final interim strategy. The State's Initiative results in an up-front, permanent commitment of officers; administration is simplified and carried out by the State. Based on our analysis, the State's Initiative will cover approximately 370,000 watercraft access projects (= boat slips) over 32 coastal counties where manatees occur for the next ten years. On average, the construction of approximately 5,000 slips is authorized annually in Florida's

waters. The State's Initiative provides for a significantly higher level of on-the-water manatee protection and law enforcement than what would be provided under our draft interim strategy.

We also believe that the State's Initiative will effectively and, under today's conditions, adequately staff manatee-inhabited waters with the necessary allocation of enforcement officers, thereby eliminating the need for applicants of watercraft access projects to either establish an agreement or contract with a local law enforcement agency or contribute to the Manatee Conservation Fund as options in providing increased enforcement as part of their project design.

Our draft interim strategy would have resulted in incremental and temporary implementation of increased enforcement as new watercraft access projects were permitted. With the State's Initiative, law enforcement will be provided up-front and on a guaranteed annual basis versus a temporally distributed deployment of efforts under the draft interim strategy. We believe this increased early-on deployment prior to MMPA regulations promulgation is far superior to the phased-in deployment that would have occurred under the draft interim strategy. The State's Initiative will result in a more effective means to address the indirect effects of watercraft access development on manatees.

Interim Strategy

This final interim strategy applies to any new watercraft access activity that could result in adverse effects on manatees. Specific manatee conservation measures proposed as part of a project must be found to reduce to an unlikely to occur level any adverse effects associated with increased access. Specific conservation measures proposed for any project must be based on a biological evaluation submitted by the applicant or the action agency. This biological evaluation must include a description of the proposed action; a description of manatee habitat and any manatee critical habitat affected by the proposed action; a thorough analysis of the effects of the proposed action on manatees, manatee habitat, and manatee critical habitat. From this biological evaluation, individuals, local governments, State agencies, and Federal agencies can develop acceptable manatee conservation measures(s). Once the measures have been developed, we can review and provide additional advice as necessary to ensure that the proposed project will reduce the potential for watercraft collisions to an unlikely to occur level.

The Corps will provide a copy of this final interim strategy to the applicant for use in designing their proposed action to comply with the provisions of the ESA. The Corps will provide a letter to us with a complete project description, including any conservation measures, and request that we review the proposed action for compliance with the ESA. The specific conservation measures necessary in any given situation will vary according to mortality risk in the area of the proposed project.

In developing the interim strategy, we assessed regional manatee populations, manatee ecology, and historic watercraft-related manatee mortality to determine relative risk of watercraft-related manatee losses and have delineated three relative risk areas throughout Florida. After examining manatee mortality data from 1974 through 2000, including five-year mortality increments and watercraft-related mortality trends, we have categorized these risk areas as high, medium and low (Table 1).

TABLE 1.—HIGH, MEDIUM, AND LOW RISK AREAS BY COUNTY IN FLORIDA

Subpopulation	County
HIGH RISK AREA	
Atlantic	Duval [1]
	Clay [1]
	St. Johns [1]
	Volusia [1]
	Brevard
	Indian River
	Martin
	Palm Beach
	Broward
	Miami-Dade
	Monroe [2]
Southwest	Collier
	Lee
	Charlotte
	Sarasota
	Manatee
	Hillsborough
Northwest	Citrus
MEDIUM RISK AREA	
Upper St. Johns	St. Johns [1]
	Putnam
	Lake
	Seminole
	Volusia [1]
Atlantic	Nassau
	Clay [1]
	Flagler
	St. Lucie
Southwest	Glades
	Hendry
	Pinellas
Northwest	Pasco
	Hernando
	Levy
	Dixie
	Taylor
	Wakulla
LOW RISK AREA	
Atlantic	Monroe [2]
	Okeechobee
Southwest	DeSoto
Northwest	Jefferson
	Franklin
	Gulf
	Bay
	Walton
	Okaloosa
	Santa Rosa
	Escambia

[1] In Northeast Florida, the portions of the St. Johns River north (downstream) of a line drawn across the river at the Shands Bridge (State Route 16) in St. Johns County are included with the high risk area of Duval County. The J. Turner Butler (Sollee) Bridge (State Route 202) across the Atlantic Intracoastal Waterway in southeast Duval County is the demarcation between the high risk area to the north of the bridge and the medium risk area to the south. The Nassau River and its tributaries in Duval County are medium risk areas. The coastal waterways of Volusia County (including the Tomoka River) are in the high risk category, and the St. Johns River in Volusia, Lake and Seminole Counties are in the medium risk category.

[2] The area in Monroe County to the east and north of the Seven Mile Bridge is considered a high risk region for manatees; whereas the area west and south of the Seven Mile Bridge is considered a low risk region for manatees.

We defined high risk (= counties) areas as those averaging one or more watercraft-related manatee mortalities per year during the past ten years; medium risk areas averaged less than one, but more than zero, watercraft-related manatee mortality per year; and low risk (the remainder of the manatee's range in the southeastern U.S.) had no documented watercraft-related mortality.

Our final interim strategy utilizes high, medium and low risk counties coupled with the Corps' revised manatee key and associated maps to identify areas where the Service believes there is adequate manatee protection. For all multi-slip projects in high and medium risk counties, we will evaluate the specific conditions in the area expected to be affected by the project, using a Reach-by-Reach analysis, in determining whether the project is likely to contribute to incidental take due to watercraft collisions. These maps identify areas or reaches that we believe have adequate or inadequate protection. These maps

have been developed by us utilizing the reach by reach analysis presented below. The maps are our current interpretation of the criteria used to make a determination on the individual reaches and will be reviewed and revised periodically. The current maps, and as these maps are revised, will be available at: *http://verobeach.fws.gov-manatee-issues/interim-strategy.htm*or may be obtained from our Jacksonville, Florida Field Office (telephone 904/232–2580) or our Vero Beach, Florida Field Office (telephone 561/562–3909).

Reach By Reach Analysis

To analyze the effects of watercraft access projects on manatees, we reviewed the baseline conditions for each of the manatee subpopulations by county and by ''reach'' based on a combination of information available to us including the Corps' Reach Characterization Analysis Geographic Information System (GIS) database. We used counties as a basic geographic analysis area because many factors important to manatee protection are provided at the county level. Manatee Protection Plans are produced by counties, manatee speed zones are designated by the State with county participation or by counties on a county level, and county sheriff's departments provide enforcement within county boundaries. These factors make county-by-county and reach-by-reach review the most logical and manageable way to analyze data and provide recommended courses of action. This county-by-county and reach-by-reach review approach provides a more holistic evaluation of speed zones than a piecemeal project-by-project review.

To evaluate the adequacy of existing manatee speed zones throughout Florida, we used information from the Reach Characterization Analysis combined with the most current information available regarding manatee use, manatee habitat, manatee mortality and harassment. The Corps compiled existing data relevant to the evaluation of the potential effects of watercraft access projects on manatees. The information contained in the Reach Characterization Analysis included manatee use data such as aerial surveys and radio telemetry; manatee habitat characteristics such as warmwater sites, seagrass distributions, and bathymetry; human use characteristics such as relative dock densities, boat densities, and navigation channels; and existing manatee protection measures (boating speed zones). Throughout Florida, the Corps defined 80 ''reaches'' based on manatee use, manatee habitat characteristics, and human use characteristics. The Corps compiled this information into its GIS database.

In some areas, we feel that changes of the Corps reach boundaries would provide a better characterization of the effects of regulated activities on manatees, and our analysis reflects these recommendations. We view the Reach Characterization Analysis as a dynamic process, and will continue to recommend changes to Corps reaches based on new information regarding manatees, boating activities, and the interaction of manatees and boating that affect manatees. To ensure the use of the best scientific and commercial data available, we supplemented the Reach Characterization Analysis information with 2000 and 2001 manatee mortality data from the Florida Marine Research Institute, and other information such as information from the Service's Division of Law Enforcement regarding the adequacy of speed zone signage in certain areas.

To reduce the likelihood of incidental take associated with any new multi-slip watercraft access projects, the Interim Strategy provides four prerequisites, that: (1) Adequate speed zones must exist in areas anticipated to have increased watercraft traffic as a result of the proposed development; (2) signage is adequate to ensure that boaters are aware of the existing speed zones; (3) enforcement in the vicinity of the proposed development is, or with project conservation measures will be, sufficient to prevent watercraft collisions with manatees; and (4) these measures be in place prior to implementation of the project.

In reviewing the baseline, we looked at existing speed zones, levels of enforcement, manatee aggregation areas, warmwater refugia, freshwater sources, seagrass beds, and other biological factors to determine if speed zones or levels of enforcement were sufficient to minimize the risk of manatee mortality. We focused on manatee mortality because this is the only form of take for which quantitative data are available. We assume that the available information regarding watercraft-related manatee mortality is a reliable indicator of other forms of incidental take, including injury and harassment. In areas where speed zones are appropriately designated and signed, increased enforcement provided by the State's Law Enforcement Initiative and other law enforcement efforts would improve compliance with manatee speed zones, reducing risk of watercraft collisions with manatees. The decrease in manatee-watercraft collisions would result in a stable or decreasing trend in watercraft-related manatee mortality.

Speed zones are designated by the Commission under Rule and published in the Florida Administrative Code (FAC). Types of zones designated include motorboat no entry zones (year-round), idle speed zones (year-round), idle speed zones (November 15 through April 30), slow speed zones (year-round), slow speed zones (November 15 through April 30), and maximum 25 mph/slow speed buffer zones (year-round). In addition, some speed zones include or specifically exclude navigational channels in the vicinity. In areas where manatee mortality has decreased or been stable since manatee speed zones were designated, signed, and enforced, we assumed that designation of manatee speed zones will protect manatees as required in prerequisite 1 above.

Speed zone enforcement cannot be implemented in an area unless the zones are well marked and the regulatory codes authorizing the zones are also on the signs (FAC 2001). The Florida Department of Environmental Protection (FDEP) and Florida Inland Navigational District (FIND) or West Coast Inland Navigation District (WCIND) provide installation and maintenance of speed zone signs. Manatee speed zone areas are inspected annually or after storm events by FIND or WCIND to ensure that adequate marking is present, and that no hazards to navigation exist. In areas where FIND, WCIND, the State, and/or counties regularly monitor and replace signs, we assumed that manatee speed zone signage will protect manatees as required in prerequisite 2 above.

Data from the Commission's Division of Law Enforcement were used to assess a per-slip level of current law enforcement to boater ratio in waters within Florida in the Interim Strategy. The estimated ratio of law enforcement officers to registered watercraft in Florida is one enforcement officer per 1,356 watercraft. Dividing the total number of annual work hours (2,080) by registered watercraft (1,356) yields a current average of 1.50 hours of enforcement per registered watercraft per year. This figure represents an index of the level of law enforcement potentially available throughout the State and does not reflect the total amount of law enforcement at a particular location. Enforcement of posted speed zones may be provided by the Service, the State, county sheriff's officers, city or other municipalities, and other entities with on-the-water enforcement capabilities such as the National Marine Sanctuaries Squad. The Coast Guard and the Service also provide speed zone enforcement

through special task force events. We calculated the amount of law enforcement provided by the State's Law Enforcement Initiative and the Corps' estimated number of slips likely to be permitted by county to ensure that an amount of enforcement per slip currently provided by all law enforcement efforts is consistent with the Interim Strategy. The State's Initiative results in an up-front, permanent commitment of officers; administration is simplified and carried out by the State. Based on our analysis, the State's Initiative will cover approximately 370,000 watercraft access projects (= boat slips) over 32 coastal counties where manatees occur for the next ten years. On average, the construction of approximately 5,000 slips is authorized annually in Florida's waters. The State's Initiative provides for a significantly higher level of on-the-water manatee protection and law enforcement than what would be provided under our draft interim strategy. In Corps reaches where the State's law enforcement initiative and other on-the-water enforcement exceed the per slip enforcement in the Interim Strategy, we assumed speed zone law enforcement will protect manatees as required in prerequisites 3 and 4 above.

Protection Areas

We reviewed all of the above information to evaluate speed zone designation, signage, and enforcement currently in place for the various reaches defined by the Corps. During our review, we located areas with adequate and inadequate protection. Areas where current speed zones are either non-existent or inappropriately designated to minimize risk of manatee-watercraft collisions as areas with increasing and/or ongoing mortality. Additional enforcement in such areas would not decrease take to a ''not likely to occur'' level and these were identified as ''areas with inadequate protection.'' Implementation of additional speed zones, signage, and/or enforcement were determined to be necessary if:

1. Manatee mortality data indicate on-going recovery of watercraft-related mortality manatee carcasses within the reach within the last 10 years, particularly in years since speed zones and signs have been in place with enforcement;

2. Speed zones, signage, and/or enforcement levels are not provided to assume manatees are protected as described above; and/or

3. Available information indicate ongoing mortality and harassment of manatees at warmwater sites.

''Areas with inadequate protection'' were examined per the above criteria, to determine whether the deficiencies affected entire reaches or portion of reaches in question. For example, some areas that currently lack manatee speed zones, signage, and enforcement affect only a portion of the Corps reach and are not located along primary watercraft travel corridors. In such instances, we concluded that increases in boat traffic within certain areas would adversely affect manatees and identified that portion of the reach as an ''area with inadequate protection.''

Conversely, other areas currently lack adequate manatee speed zones, signage, and enforcement over entire reaches, and/or are located along primary watercraft travel corridors. In these areas, we reasonably assumed a high likelihood that increases in watercraft access anywhere within the reach or reaches would increase boat traffic, increasing risks to manatees, and designated the reach or reaches as an ''area with inadequate protection.''

Medium and High Risk Counties

We will continue to review new multi-slip watercraft access projects in medium and high risk counties. Additional watercraft access projects in ''areas with inadequate protection'' may result in take of manatees and cannot be consistent with the final Interim Strategy. We believe that these projects would require separate review and potential authorization for incidental take under the MMPA. Should appropriate speed zones be created or modified to provide additional protection for manatees, the designation of an reach or portion of a reach as an ''area with inadequate protection'' could be modified to reflect a change in the baseline.

In ''Areas with Inadequate Protection'' designated based on a lack of one of the four prerequisites, consultation may be initiated between the Corps and us if inadequate speed zones, signage, or enforcement are corrected. If consultation is initiated, we will evaluate, using a Reach-by-Reach analysis already conducted by us as well as any new information that becomes available during project review, the specific conditions of an area expected to be affected by the project to determine whether the project is likely to result in incidental take. The four basic prerequisites necessary to ensure that incidental take is unlikely to occur are: (1) Adequate speed zones; (2) adequate signage; (3) sufficient speed zone enforcement to prevent watercraft collisions from occurring as a result of the project; and (4) these measures must be in place prior to project implementation. If these prerequisites are met, we may find that a new facility would be unlikely to result in the incidental take of manatees. If the four prerequisites cannot be met, we cannot reasonably conclude that the project is unlikely to result in incidental take.

In ''Areas with Inadequate Protection'' designated because the prerequisites will not reduce incidental take to an unlikely to occur level, we cannot provide an incidental take statement for a facility under ESA until and unless incidental take is authorized under MMPA unless we determine through the review process that conditions have changed. A special regulation promulgated under MMPA could authorize incidental take that has a negligible effect on reproduction. We would then consider this information to determine if incidental take could be authorized under ESA in areas currently designated because the four prerequisites will not reduce incidental take to an unlikely to occur level. However, it is the Corps' responsibility to decide whether or not to issue a permit.

Low Risk Counties

Since projects in low risk counties have no history of any watercraft-related manatee mortality, we find that proposed projects in these areas are unlikely to contribute to the incidental take of manatees through watercraft collisions. As new information becomes available, we will continue to assess whether any proposed project in manatee habitat is likely to result in incidental take through watercraft collisions or have any adverse effects on the species.

Single Family Docks

Single family docks (3 slips or less) were considered in the draft interim guidance, after contribution for increased law enforcement to reduce incidental take associated with watercraft access. In the final interim strategy, they will be considered without a contribution, due to the overall increase in law enforcement measures implemented by the State's Initiative. We believe that this increased law enforcement effort, will allow these single family projects, to go forward provided, we continue to monitor their cumulative effects on the manatee in all reaches using best available science and the commitment to make future changes to this process if necessary. To facilitate this review process, we will receive at least quarterly reports on permits issued for watercraft access projects, including single family docks.

We continue to encourage the State of Florida, the Corps, and other Federal, tribal, local, and private entities to seek incidental take authorization for their watercraft-related activities that are likely to cause the incidental take of manatees, as defined under the ESA and MMPA.

Monitoring Implementation and Effectiveness of the State's Initiative

The effectiveness of the State's law enforcement efforts will be evaluated on a continuing basis by comparing watercraft-related manatee mortality data in areas to previous rates of mortality. We will pay particular attention to data from areas where law enforcement has increased. Although review of program implementation and evaluation of manatee mortality and injury are continuous processes, the manatee mortality risk areas will be assessed at one-year intervals coinciding with our review of the State's publication of annual manatee mortality data. If we and the Commission determine at any time that these enforcement efforts are not meeting their intended objectives, then the agencies will coordinate their efforts to rectify the situation. Monitoring implementation and effectiveness will determine the need to continue, to extend the scope of, to change elements of, and/or to add new components to the enforcement.

Author

The primary author of this document is Kalani Cairns (see **ADDRESSES** section).

Authority

The authority for this action is section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: August 9, 2001.

Thomas M. Riley,

Acting Regional Director.

[FR Doc. 01–21069 Filed 8–16–01; 2:31 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Safe Harbor Agreement and Receipt of an Application for an Enhancement of Survival Permit Associated With Proposed Habitat Management Activities for the Red-Cockaded Woodpecker on the Avalon Plantation Annex, Jefferson County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

Turner Endangered Species Fund (Applicant) proposes to enter into a Safe Harbor Agreement (SHA) with the U.S. Fish and Wildlife Service (Service) to manage habitat for the endangered red-cockaded woodpecker (*Picoides borealis*) (RCW) for a period of 33 years. The Service's Safe Harbor Policy provides that landowners may return properties enrolled under SHAs to conditions that existed prior to entering into the SHA. These existing conditions are hereinafter referred to as baseline conditions. Returning enrolled properties to baseline conditions may result in the take of federally listed species, but such taking may be authorized under section 10(a)(1)(A) of the Endangered Species Act of 1973 (U.S.C. 1531 *et seq.*), as amended (Act), provided that the actions taken pursuant to a signed SHA result in a net conservation benefit to the species, as described in the Safe Harbor Policy (64 **Federal Register** 32706). The Applicant has committed to implement such conservation benefits for the RCW and requests issuance of an enhancement of survival permit (ESP) in order to address the take prohibitions of section 9 of the Act should the Applicant choose to return the enrolled property to baseline conditions in the future.

Primary threats to the RCW throughout its range all have the same basic cause: lack of suitable habitat. To help address this threat, the Service has entered into SHAs that have been successfully used in North Carolina, South Carolina, Texas, Georgia, and Virginia to encourage restoration and management of RCW habitat on private lands. The Applicant will actively manage pine forests on the enrolled property and will carry out conservation measures intended to attract and retain RCWs at the site. Such management will include use of prescribed fire to emphasize fire regimes that mimic natural processes, selective timber harvest, and installation of artificial cavities in suitable pine trees. The Applicant has also expressed a willingness to relocate juvenile RCWs to the property under appropriate permits from the Service and State of Florida. The enrolled property, known as the Avalon Plantation Annex, contains approximately 2,800 acres in Township 1 South, Range 3 East, Sections 1,2,3,10,11,12, and Township 1 North, Range 3 East, Section 35, Jefferson County, Florida. This area is approximately 20 miles east of Tallahassee, Florida.

Future activities of the Applicant could result in a return to the baseline condition of the property. However, the Applicant has stated that this is not anticipated, and, further, that the Applicant is not undertaking this SHA for the purpose of obtaining such regulatory assurances, although these assurances will be given if the ESP is issued. Instead, the Applicant hopes to demonstrate to landowners in the surrounding area, many of whom also manage their southern pine forest lands in a manner similar to that of the enrolled property, that SHAs are a landowner-friendly tool that can assist landowners in meeting land management objectives while also contributing to the conservation and recovery of the RCW. Experience with SHAs elsewhere has demonstrated the utility of getting one or more initial landowners to enroll in Safe Harbor programs in order to spur the interest of other landowners.

A more detailed description of the proposed conservation benefits and potential effects of returning the enrolled property to baseline conditions is provided in the **SUPPLEMENTARY INFORMATION** section below.

The SHA may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuance of the ESP will not result in significant environmental, economic, social, historical or cultural impacts and is, therefore, categorically excluded from review under the National Environmental Policy Act of 1969, as amended (NEPA), pursuant to 516 Departmental Manual 2, Appendix 1 and 516 Departmental Manual 6, Appendix 1. This notice is provided pursuant to section 10 of the Act and the Service's Safe Harbor Policy (**Federal Register** Vol. 64, No. 116, June 17, 1999, pp. 32717–32726). The Service specifically requests information, views, and opinions from the public via this notice. Further, the Service is specifically soliciting information regarding the adequacy of the SHA as

measured against the Service's Safe Harbor Policy.

DATES: Written comments on the SHA and ESP application should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before September 20, 2001.

ADDRESSES: Persons wishing to review the SHA and ESP application may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 1612 June Avenue, Panama City, Florida 32405. Written data or comments concerning the SHA or ESP application should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed, and comments must be written to be considered in the Service's decision-making process. Please reference permit number TE039728–0 in comments or document requests.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Andrews, Safe Harbor Program Coordinator, (see **ADDRESSES** above), telephone: 404/679–7217, facsimile: 404/679–7081; or Mr. Stan Simpkins, Fish and Wildlife Biologist, Panama City Field Office, Panama City, Florida, (see **ADDRESSES** above), telephone: 850/769–0552.

SUPPLEMENTARY INFORMATION: RCWs are black and white with a ladder back and large white check patches. The common name is in reference to the several red feathers (known as a ''cockade'') located between the black crown and check patch on males that are briefly displayed when the male is excited. The cockade is a poor field mark because it is rarely seen, but does identify the sexes of adult birds in the hand. The RCW was once a common inhabitant of pine forests from southern Maryland south throughout Florida, west to eastern Texas and Oklahoma, and as far north as Missouri and Kentucky. Currently there are an estimated 12,500 RCWs living in roughly 5,000 family groups across 12 states. This is less than 3 percent of estimated abundance at the time of European settlement. This decline was caused by an almost complete loss of habitat. Fire maintained old growth pine savannahs and woodlands that once dominated the southeast, on which RCWs depend, no longer exist except in a relative few disjunct areas. Longleaf pine ecosystems, of primary importance to the species, are now among the most endangered on earth. The RCW was federally listed in 1968 because of its rarity, documented declines in local populations, and reductions in available nesting habitat.

The RCW is a territorial, non-migratory, cooperative breeding species. It is unique in that it is the only North American woodpecker that exclusively excavates its roost and nest cavities in living pines. Usually, the trees chosen for cavity excavation are infected with a heartwood-decaying fungus. The heartwood associated with this fungus, and typically required for cavity excavation, is not generally present in longleaf pine and loblolly pine until 90–100 and 75–90 years of age, respectively. Excavation of cavities in living pines is a difficult process that may take 10 months to several years to complete. Trees suitable for cavity excavation are scarce and cavity construction represents a significant investment of time and energy.

RCWs live in social family groups. A group usually consists of a breeding pair, the current year's offspring, and 0–4 helpers, normally the male offspring of the breeding pair from previous years. A group usually contains from 1–5 birds, but never more than one breeding pair. Groups maintain year-round territories near their roost and nest trees. Juvenile females from the current year's breeding season normally disperse prior to the next breeding season to locate solitary male territories. Each RCW has its own cavity, although multiple cavities may exist in a cavity tree. The aggregate of cavity trees, surrounded by a 200 foot forested buffer, is called a cluster.

RCWs forage almost exclusively on pine trees. Although in some habitat types they will use smaller pine trees as foraging substrate, they prefer pines greater than 10 inch diameter at breast height. Determining the number of pines required to provide the arthropod biomass needed to meet a RCW's year-round dietary requirements continues to be a challenging research problem.

Many complex and interrelated factors undoubtedly contribute to the answer, including condition of the understory plant community, annual weather fluctuations, forest type, soils, physiographic province, season-of-year, and fire frequency and intensity. The number of acres required to supply adequate foraging habitat depends on the quantity and quality of pine tree stems available.

The objective of management activities proposed by the Applicant is to create and maintain mature, open pine forest containing very little hardwood encroachment and a diverse herbaceous understory. This type of habitat is usually considered the preferred habitat of the RCW. Specific management actions would include:

1. Regular prescribed burning under the direction of state-certified burn managers to suppress hardwood growth and facilitate pine regeneration;

2. Limited timber harvest accomplished through single-tree selection (rather than clear cutting or similar means) to retain most, if not all, of the structure and character of undisturbed forest and potentially maintain a healthy population of RCW;

3. Protection of trees with the earliest potential to become cavity trees so as to hasten the establishment of breeding groups of RCWs on the property;

4. Installation of artificial cavities in suitably sized trees to attract and hold dispersing RCWs from nearby areas;

5. Translocation of juvenile RCWs to the enrolled property, if juveniles are available and if approved by the Service and permitted by the Florida Fish and Wildlife Conservation Commission, in order to accelerate the use and occupancy of the property by RCWs.

Loss of the conservation benefits proposed by the Applicant could occur with alterations of property's land use. However, since the Applicant has indicated that the proposed management activities will be carried out as long as the property remains in the Applicant's ownership, which is expected to be greater than the duration of the ESP, no take or return to baseline conditions is anticipated. During the term of the SHA, incidental take could occur as a result of a variety of activities, including, but not limited to, emergency silvicultural operations to stem pine beetle infestations, and accidents, including prescribed fires that consume cavity trees. Notwithstanding these potential negative effects, the Service proposes to enter into the SHA with the Applicant and proposes to issue the requested ESP to cover the incidental take of RCWs by the Applicant during the duration of the ESP. The Service has established the baseline conditions for the enrolled property as zero (0) RCWs, zero (0) RCW groups, and no occupied RCW habitat.

The Service will also evaluate whether the issuance of the ESP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of the section 7 consultation, in combination with the above-referenced findings and any public comments, will be used in the final analysis to determine whether or not we will issue the requested ESP.

Dated: August 9, 2001.

Sam D. Hamilton,

Regional Director.

[FR Doc. 01–21007 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Comprehensive Conservation Plan and Environmental Assessment for Wyandotte National Wildlife Refuge, Wyandotte, Michigan, and Ecorse, MI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to the Refuge Improvement Act of 1997, the U.S. Fish and Wildlife Service has published the Wyandotte National Wildlife Refuge Draft Comprehensive Conservation Plan and Environmental Assessment. The Plan describes how the Service intends to manage the Refuge for the next 15 years. The Plan can be viewed online at *http://midwest.fws.gov/planning/wyandotte.htm.*

DATES: Written comments must be received by September 20, 2001. All comments should be addressed to Doug Spencer, Shiawassee National Wildlife Refuge, 6975 Mower Road, Saginaw, MI 48601. Comments may also be submitted through the Service's regional website at: *http://midwest.fws.gov/planning/wyandotte.htm.*

ADDRESSES: A copy of the Plan or a summary may be obtained by writing to Doug Spencer at the address above or by placing a request through the website.

FOR FURTHER INFORMATION CONTACT: For additional information contact Doug Spencer, Shiawassee National Wildlife Refuge, 6975 Mower Road, Saginaw, MI 48601. Phone (517) 777–5930 or E-mail doug-spencer@fws.gov.

SUPPLEMENTARY INFORMATION: The Refuge is located in the Lower Detroit River, in the cities of Wyandotte and Ecorse in Wayne County, Michigan. When created, the Refuge consisted of two islands, Grassy and Mamajuda, and the shallow water shoals around the islands. Since the Refuge's creation, Mamajuda Island has decreased in size and is exposed only during low water levels. Both islands are located on a bar that lies between the Trenton and Fighting Island ship channels in the central part of the Detroit River. This bar extends from the mouth of the Ecorse River to the head of Grosse Ile, a distance of approximately 3.5 miles. It ranges from one-quarter to one-half mile in width and at present it is covered with 3 to 8 feet of water. At the present time, only 72 acres of Grassy Island are exposed. The 18.5-acre Mud Island and 71.5 acres of submerged aquatic shoals were added to the Refuge on June 14, 2001, bringing the entire Wyandotte National Wildlife Refuge to 394 acres in size.

The Draft Comprehensive Conservation Plan emphasizes preserving the wildlife habitat values that exist on the Refuge and addressing contaminant issues on Grassy Island.

Dated: July 31, 2001.

William F. Hartwig,

Regional Director.

[FR Doc. 01–21008 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On May 22, 2001 a notice was published in the **Federal Register** (66 FR 28196), that an application had been filed with the Fish and Wildlife Service by Jay W. Furney for a permit (PRT–037656) to import one polar bear taken from the Northern Beaufort Sea population, Canada, for personal use.

Notice is hereby given that on July 30, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On June 6, 2001 a notice was published in the **Federal Register** (66 FR 30476), that an application had been filed with the Fish and Wildlife Service by Vaughn Liljenquist for a permit (PRT–043194) to import one polar bear taken from the Northern Beaufort Sea population, Canada, for personal use.

Notice is hereby given that on July 24, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: August 10, 2001.

Monica Farris,

Senior Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–21039 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Sport Fishing and Boating Partnership Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: As provided in section 10(a)(2) of the Federal Advisory Committee Act, the Fish and Wildlife Service announces a meeting designed to foster partnerships to enhance public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating in the United States. This meeting, sponsored by the Sport Fishing and Boating Partnership Council (Council), is open to the public, and interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: The meeting will be held on Tuesday, Sept. 11, 2001, 10 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Broadview Hotel, 400 West Douglas Ave., Wichita, KS 67202, (316) 262–5000.

Summary minutes of the conference will be maintained by the Council Coordinator at 4040 N. Fairfax Dr., Room 132A, Arlington, VA 22203, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

FOR FURTHER INFORMATION CONTACT: Laury Parramore, Council Coordinator, at (703) 358–1711.

SUPPLEMENTARY INFORMATION: The Sport Fishing and Boating Partnership Council was formed in January 1993 to advise the Secretary of the Interior through the Director, U.S. Fish and Wildlife Service, about sport fishing and boating issues. The Council represents the interests of the public and private sectors of the sport fishing and boating communities and is organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council includes the Director of the Service and the president of the International Association of Fish and Wildlife Agencies, who both serve

in ex officio capacities. Other Council members are Directors from State agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, aquatic resource outreach and education, and tourism. The Sport Fishing and Boating Partnership Council (Council) will convene to discuss: (1) The Council's continuing role in providing input to the Fish and Wildlife Service on the Service's strategic planning for its Fisheries Program; (2) the Council's work in its role as a facilitator of discussions with Federal and State agencies and other sportfishing and boating interests concerning a variety of national boating and fisheries management issues; (3) the Council's role in providing the Interior Secretary with information about the implementation of the Strategic Plan for the National Outreach and Communications Program. The Interior Secretary approved the plan in February 1999, and the five-year, $36-million federally funded outreach campaign authorized by the 1998 Sportfishing and Boating Safety Act is now being implemented by the Recreational Boating and Fishing Foundation, a private, nonprofit organization.

Dated: August 6, 2001.

Marshall P. Jones, Jr.,

Acting Director.

[FR Doc. 01–21006 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0185

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect information from oil and gas lessees who have the obligation to ensure their oil and gas leases are protected from drainage. BLM uses the information to determine whether lessees and operating rights owners have complied with this obligation. Drainage of oil and gas resources results in lower royalties to the Federal Government.

DATES: You must submit your comments to BLM at the address below on or before October 22, 2001. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (630), Bureau of Land Management, Mailstop 401LS, 1849 C Street, NW, Washington, DC 20240.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0185'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW, Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Barbara Gamble on (202) 452–0338 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Gamble.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

The Mineral Leasing Act of 1920 (MLA), 30 U.S.C. 181 *et seq.,* gives the Secretary of the Interior responsibility to ensure protection of Federal oil and gas leases from drainage. Whenever drainage of Federal oil and gas resources is occurring, the lessee is required to drill all wells necessary to prevent losses of revenues due to such drainage, or enter into a communitization or unitization agreement, or to pay compensatory royalties for periods in which drainage has occurred or is occurring.

The regulations under 43 CFR 3100 specify that oil and gas lessees have the obligation to ensure protection of their leases from drainage. The lessees and operating rights owners must monitor drilling activities of offending wells that may result in drainage situations. BLM has the responsibility to notify lessees if it has reason to believe there is drainage of Federal oil and gas resources. If BLM determines that drainage may be occurring, it will notify the lessees of the affected leases to take protective action or to provide BLM with evidence that drainage is not occurring or that a protective well would not be economic to drill, produce, and operate. BLM uses this information to determine if lessees and operating rights owners have complied with this obligation. Drainage of oil and gas resources results in lower royalties to the Federal Government.

If BLM does not collect this information, it would lack the necessary information to ensure lessees and operating rights owners are fulfilling their obligations with respect to determining whether any producing wells nearby may be draining oil and gas resources covered by their leases. BLM collects the information in the regulations that address drainage and do not require a form.

Type of analysis	Number of analyses	Hours
Preliminary	1,000	2,000
Detailed	100	2,400
Additional	10	200
Total	1,110	4,600

Based upon its experience managing activities related to drainage of oil and gas resources, BLM estimates the above public reporting information collection burden. The estimated number of responses per year is 1,110. The estimated total annual burden is 4,600 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: July 23, 2001.

Michael H. Schwartz,

BLM Information Collection Clearance Officer.

[FR Doc. 01–21052 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–01–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0188

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect information from individuals who request rights-of-way on public lands that BLM administers under the regulations 43 CFR 2800 and 43 CFR 2880. The nonform information under 43 CFR 2800 and 43 CFR 2880 will allow BLM to:

(1) Process plans of development for complex right-of-way projects;

(2) Review and file location and project maps;

(3) Adjudicate applications for reductions in cost recovery fees;

(4) Properly assess rents on communication site rights-of-way;

(5) Determine whether or not applicants are qualified to hold right-of-way grants; and

(6) Determine the amount of fees that the applicants or grant holders owe the United States.

DATES: You must submit your comments to BLM at the address below on or before October 22, 2001. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (630), Bureau of Land Management, Mailstop 401L, 1849 C Street, NW., Washington, DC 20240.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0188'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Realty Use Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will leave practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

BLM needs the information to administer its right-of-way program. Title V of the Federal Land Policy and Management Act of 1976 (FLPMA) authorizes the Secretary of the Interior to issue and renew rights-of-way through public lands under its jurisdiction. These rights-of-way uses are reservoirs, ditches, pipes and pipelines, electrical general and transmission systems, communication systems, roads, airways, and livestock driveways. BLM requires each right-of-way grant holder to reimburse for all reasonable administrative costs to process an application and monitor the right-of-way grant in accordance with section 504(g).

Section 28 of the Mineral Leasing Act of 1920 (MLA), as amended, 30 U.S.C. 185 *et seq.*, authorizes the Secretary of the Interior to issue right-of-way grants through public lands to transport oil, gas, synthetic liquid or gaseous fuels or other refined products. The Act also allows for temporary use permits to supplement each oil and gas pipeline grant to construct, operate, maintain and terminate the pipeline, and to protect public health and safety. BLM requires right-of-way permit holders to reimburse for actual costs to process application for oil and gas pipeline grants under paragraph (f) of section 28.

The nonform information in the regulation under 43 CFR 2800 and 43 CFR 2880 authorizes BLM to collect this information to administer the rights-of-way program. Without this information, BLM would not be able to properly administer its right-of-way program.

Based upon BLM experience and recent tabulations of activity, we process approximately 4,050 applications each year. Depending on the complexity of the applications for rights-of-way, responses vary from 8 to 40 hours to complete. The estimated number of responses per year is 4,050. The estimated total annual burden is 19,550 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: July 31, 2001.

Michael H. Schwartz,

BLM Information Collection Clearance Officer.

[FR Doc. 01–21053 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–1990–FA–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0114

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect information from owners of unpatented claims, mill sites, and tunnel sites. BLM uses Forms 3830–2 and 3830–3 to collect this information to:

(1) Record such claims and sites;

(2) Determine the land status at the time of location;

(3) Collect annual maintenance and location fees;

(4) Process waiver of annual fees;

(5) Process annual affidavits of labor or notices of intent to hold a mining claim or site;

(6) Process requests for deferments from assessment work;

(7) Process transfers of interest; and

(8) Adjudicate such claims and sites.

The regulations under 43 CFR 3830–3833, 3840–3843, 3850–3852 authorize BLM to collect the above information to manage the general mining law activities on public lands.

DATES: You must submit your comments to BLM at the address below on or before October 22, 2001. BLM will not

necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (630), Bureau of Land Management, Mailstop 401LS, 1849 C Street, NW, Washington, DC 20240.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0114'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW, Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Roger A. Haskins on (202) 452–0372 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Haskins.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimate of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

The Federal Land Policy and Management Act of 1976, 30 U.S.C. 28f (Public Law 105–277), and the regulations under 43 CFR 3830–3833, 3840–3843, 3850–3852 authorizes BLM to collect information from owners of unpatented claims, mill sites and tunnel sites to manage the general mining law activities on public lands.

BLM uses Form 3830–2 (Maintenance Fee Waiver) to collect the information to waive the $100 annual maintenance fee that owners of unpatented mining claims, mill sites, and tunnel sites must pay. The owners of unpatented mining claims, mill sites, and tunnel sites must submit the following information to BLM:

(1) The mining claim names and BLM serial numbers;

(2) A declaration of owning no more than 10 claims or sites;

(3) A declaration of compliance with the assessment work requirements;

(4) The names and addresses of all owners of the claims and sites; and

(5) The owners' signatures.

BLM uses Form 3830–3 (Notice of Intent to Locate A Lode or Placer Mining Claim(s) and/or A Tunnel Site(s) on Lands Patented Under the Stock Raising Homestead Act of 1916, As Amended by the Act of April 16, 1993) to collect information on an applicant who files a notice of intent to locate or explore for a mining claim or tunnel site. The applicant must submit the following information to BLM:

(1) The name and mailing address of the applicant filing the notice of intent to locate or explore for a mining claim or tunnel site;

(2) A legal land description of the lands which the notice of intent will apply;

(3) A brief description of the proposed mineral activities;

(4) A map and legal description of lands subject to mineral exploration;

(5) The name, address, and phone number of the person managing the activities; and

(6) The dates activities will take place.

BLM will use all of the information collected on recording claims, annual assessment work, notice of intent to hold, and transfer of interest to:

(1) Determine the number and location of unpatented mining claims, mill sites and tunnel sites located on Federal lands to assist in the surface management of these lands and any minerals found there;

(2) Remove any cloud on the title to those lands due to abandoned mining claims;

(3) Provide information as to the location of active claims; and

(4) Keep informed of transfers of interest and ownership.

Without this information, BLM would not be able to protect the rights of surface and mineral owners; the Government's ability to locate, control, and manage surface disturbance would be compromised; and opportunities for mineral exploration and development would be limited.

Based upon BLM experience administering FLPMA and the general mining laws, the public reporting information collection burden takes eight minutes per response. The respondents are owners of unpatented mining claims, mill sites, and tunnel sites located on public lands and individuals or organizations who seek to explore for or locate a mining claim. The estimated number of responses per year is 364,000 and the total annual burden is 48,545 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: July 30, 2001.

Michael H. Schwartz,

BLM Information Collection Clearance Officer.

[FR Doc. 01–21054 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1020–PB–241 1a]

Extension of Approved Information Collection, OMB Approved Number 1004–0005

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect information from individuals who apply for grazing permits or leases or who apply to make changes in grazing use within the terms and conditions of existing permits and leases. BLM uses Form 4130–1 (Grazing Application) to collect information that describes the applicant's desired grazing use under a new grazing permit or lease or that describes the applicant desired changes in grazing use within the terms and conditions of an existing permit or lease. The regulations under 43 CFR 4130 authorize BLM to issue grazing permits or leases to qualified applicants and to authorize changes in grazing use within the terms and conditions of an existing permit or lease.

DATES: You must submit your comments to BLM at the address below on or before October 22, 2001. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (630), Bureau of Land Management, Mailstop 401LS, 1849 C Street, NW., Washington, DC 20240.

You may send comments via Internet to: *WOComment@blm.gov.* Please

include ''ATTN: 1004–0005'' and you name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Ken Visser on (202) 452–7743 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Visser.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

The regulations under 43 CFR 4130 authorize BLM to issue grazing permits or leases to applicants who apply to have their livestock graze on public lands. BLM administers the livestock grazing program consistent with land-use plans, multiple-use objectives, sustained yield, environmental values, economic considerations, and other factors. To do so, BLM requests information from the permittees and lessees to authorize livestock grazing use on the public lands and to amend annual authorized grazing use levels.

BLM will use Form 4130–1 to collect the following information:

(1) The name and number of the grazing allotment to verify the authorized location;

(2) The number of livestock;

(3) Periods of use for billing purposes to calculate grazing use fees;

(4) To record brands to verify ownership;

(5) To determine reasons for any nonuse of the grazing allotment;

(6) To determine if the use applied for is within the authorized level of use;

(7) To determine if the use applied for is consistent with multiple-use objectives; and

(8) To develop the appropriate terms and conditions under 43 CFR 4130.3–1 and 4130.3–2.

BLM uses this information also for various grazing administrative purposes depending on the nature of the application. These purposes include:

(1) To identify the applicant;

(2) To determine if the requested terms and conditions of grazing use are consistent with regulations and applicable land use plan or activity plan management guidance;

(3) To determine if the livestock brands are recorded to the applicant;

(4) To develop the appropriate terms and conditions under 43 CFR 4130.3–1 and 4130.3–2;

(5) To consider modifying terms and conditions of grazing use under 43 CFR 4130.3;

(6) To consider changes to grazing use within terms and conditions of the existing permit or lease under 43 CFR 4130.4(b); and

(7) To determine the forage amount requested and the grazing fees due for use.

Based upon BLM experience and recent tabulations of activity, we process approximately 6,000 applications each year. The public reporting information collection burden takes 20 minutes to complete. The estimated number of responses per year is 6,000 and the total annual burden is 2,000 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: August 3, 2001.

Michael H. Schwartz,

BLM Information Collection Clearance Officer.

[FR Doc. 01–21055 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–010–1060–00 HI]

Public Land Closures; Temporary Closure of Designated Areas of the Pryor Mountain National Wild Horse Range in the Southeastern Portion of Carbon County, Montana and the Northern Portion of Big Horn County, Wyoming, to Public Access, Use, or Occupancy

AGENCY: Bureau of Land Management (BLM), Montana, Billings Field Office, Interior.

SUMMARY: Notice is served that designated areas of the Pryor Mountain National Wild Horse Range will be closed to all unauthorized persons.

DATES: Rotating closures will be in effect from on, or about, September 10, 2001, 0001 AM MDT through the conclusion of the gather operation, anticipated to conclude September 30, 2001 6:00 PM MDT depending on the weather and success of gather and adoption operations.

Discussion of the Closure

This closure is necessary to ensure the safety and welfare of all participants and observers for this gather, and to protect the wild horses as a natural resource on public lands. Efforts will be made to avoid time periods, such as weekends, of heavier anticipated use of the range. The helicopter contractor is available to work on weekends, however, and this may be necessary due to temporary weather shutdowns, or other unforseen circumstances. This will be the second time that helicopters are used as the primary tool for herding horses into the Britton Springs Corral facility on the Pryor Mountain National Wild Horse Range. In order to operate the aircraft in a safe and effective manner, and based on experience gained in the 1997 gather, it is necessary to close the affected areas to all public use during actual herding operations. The wild horses are separated into social groups that occupy three fairly distinct geographic areas of the range including Sykes Ridge, Burnt Timber Ridge, and the Dry Head/Layout Creek portions of the Bighorn Canyon National Recreation Area. Gather operations will be selective and will focus on one geographic area at a time. Normal aircraft operations will probably conclude in the early afternoon of each day of operations, following which the affected areas will be opened until the next aircraft operational period. Detailed information may be obtained

from: Environmental Assessment and Gather Plan Pryor Mountain Wild Horse Range, FY 2001 Wild Horse Population Gather & Selective Removal: EA # MT–010–1–44, dated June 19, 2001.

This closure will be on a temporary and rotating basis during a gather operation beginning on or about September 10, 2001. It is anticipated that the operation will take approximately three weeks, depending on weather and other variable conditions. Areas to be closed include Sykes Ridge, Bighorn Canyon National Recreation Area (BICA) Dryhead area, Burnt Timber Ridge and the Britton Springs Administrative Site. Each area will be closed individually for one to three (1–3) days depending upon the outcome of gather operations. Only one area will be closed during any given period, except for the Britton Springs Administrative Site which will be closed for the duration of the operation. Gather efforts within the BICA Dryhead area will be coordinated through the National Park Service. Dryhead activities will not result in closures, but some traffic control may be effected during actual operations. Affected lands are as follows:

Sykes Ridge Closure Area

Principal Meridian, Montana

Township 8 S., Range 28 E., PMM

Sec. 4: M&B
Sec. 5: All
Sec. 8: M&B
Sec. 9: All
Sec. 10: M&B
Sec. 16: All
Sec. 17: All
Sec. 20: All
Sec. 21: W½E½
Sec. 28: W½
Sec. 29: All
Sec. 32: All
Sec. 33: W½ , W½SE¼

Township 9 S., Range 28 E., PMM

Sec. 4: NWNE, S½NE¼, W½, SE¼
Sec. 5: All
Sec. 8: All
Sec. 9: All
Sec. 10: W½ SW¼
Sec. 15: NWNW, S½NW¼, SW¼
Sec. 16: All
Sec. 17: All
Sec. 20: All
Sec. 21: All
Sec. 22: W½
Sec. 27: All
Sec. 28: All
Sec. 29: All
Sec. 32: All
Sec. 33: All
Sec. 34: All

Sixth Principal Meridian, Wyoming

Township 58 N., Range 95 W., 6th PM

Sec. 19: M&B
Sec. 20: M&B
Sec. 21: All
Sec. 22: All
Sec. 23: M&B
Sec. 27: All
Sec. 28: All
Sec. 29: M&B
Sec. 33: M&B
Sec. 34: M&B (end)

Burnt Timber Ridge Closure

Principal Meridian, Montana

Township 8 S., Range 27 E. PMM

Sec. 12: All
Sec. 13: All
Sec. 24: All
Sec. 25: All
Sec. 26: All
Sec. 35: All
Sec. 36: All

Township 8 S., Range 28 E., PMM

Sec. 6: All
Sec. 7: All
Sec. 8: All
Sec. 17: All
Sec. 18: All
Sec. 19: All
Sec. 20: All
Sec. 29: All
Sec. 30: All
Sec. 31: All
Sec. 32: All

Township 9 S., Range 27 E., PMM

Sec. 1: All
Sec. 2: All
Sec. 11: All
Sec. 12: All
Sec. 13: All
Sec. 14: All
Sec. 23: All
Sec. 24: All
Sec. 25: All
Sec. 36: All

Township 8 S., Range 28 E., PMM

Sec. 5: All
Sec. 6: All
Sec. 7: All
Sec. 8: All
Sec. 17: All
Sec. 18: All
Sec. 19: All
Sec. 20: All
Sec. 29: All
Sec. 30: All
Sec. 31: All
Sec. 32: All
Sec. 33: All

Sixth Principal Meridian, Wyoming

Township 58 N., Range 95 W., 6th PM

Sec. 19: M&B
Sec. 20: M&B
Sec. 21: All
Sec. 22: All
Sec. 23: M&B
Sec. 27: All
Sec. 28: All
Sec. 29: M&B
Sec. 33: M&B
Sec. 34: M&B (end)

Britton Springs Closure

Principal Meridian, Montana

Township 9 S., Range 27 E., PMM

Sec. 36: M&B

Township 9 S., Ranger 28 E., PMM

Sec. 31: All
Sec. 32: All

Sixth Principal Meridian, Wyoming

Township 58 N., Range 95 W., 6thPM

Sec. 19: M&B
Sec. 20: M&B
Sec. 21: All
Sec. 28: All
Sec. 29: M&B
Sec. 33: M&B

FOR FURTHER INFORMATION CONTACT: Sandra S. Brooks, Billings Field Office Manager, 5001 Southgate Drive, P.O. Box 36800, Billings, MT 59107, or call (406) 896–5013.

Prohibited Acts

Under 43 CFR 8364.1, the Bureau of Land Management is closing the affected lands to all use or occupancy during wild horse gathering, holding, and adoption. No person may occupy or enter the closed area on foot, horseback or by mechanical means.

Exemptions

Persons who are exempt from these rules include any Federal, State, or local officer or employee in the scope of their duties, members of any organized rescue or fire-fighting force in the performance of an official duty, and any person authorized in writing by the Bureau of Land Management.

Penalties

The authority for this closure is found under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a); 43 CFR 8364.1, and 43 CFR 8360–7. Any person who violates this closure may be tried before a United States Magistrate and fined no more than $1,000.00 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the

enhanced fines provided for by 18 U.S.C. 3571.

Sandra S. Brooks,

Field Office Manager, Billings Field Office.

[FR Doc. 01–21061 Filed 8–20–01; 8:45 am]

BILLING CODE 1060–00–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–2810–HT; GP1–0258]

Notice of Regulated Fire Closure for Bureau of Land Management Public Lands in the State of Washington

AGENCY: Bureau of Land Management, Spokane District, Interior.

SUMMARY: Pursuant to 43 CFR 9212.2, the following acts are *prohibited* on public lands within the Spokane District, Bureau of Land Management (BLM) including Juniper Forest Area, Hog Canyon, Miller Ranch/Fishtrap Recreation Area, Pacific Lake, Twin Lakes, Coffeepot, Yakima River Canyon, Douglas Creek, Chopaka/Palmer Mountain, Split Rock, Liberty, Saddle Mountains, Lakeview Ranch/Lake Creek, Horse Heaven Hills, Duffy Creek Management Area, Boundary Dam, Escure Ranch/Rock Creek, and San Juan Island sites, beginning at 12:01 a.m. August 4, 2001 until further notice:

1. Building, maintaining, attending or using a fire, campfire or stove fire, including charcoal briquette fire including all improved campgrounds (43 CFR 9212.1(h)).

Note: Liquified and bottled gas stoves and heaters are permitted provided they are used within a designated campground or picnic areas.

2. Smoking while traveling in timber, brush or grass areas, except in vehicles on roads, on barren or cleared areas at least 3 feet in diameter, or boats on rivers and lakes. (43 CFR 9212.1(h)).

3. Operating any type of motorized vehicle off developed roadways. Parking of vehicles off roadways must be done in an area barren of flammable materials (43 CFR 9212.1(g)).

Note: Developed roadways are those that are clear of flammable debris, berm to berm.

Pursuant to 43 CFR 9212.3(a) the following persons are exempt from this order:

1. Persons with a permit that specifically authorized the otherwise prohibited act or omission (43 CFR 9212.3(a)).

2. Any Federal, State or local officer or a member of an organized rescue or firefighting force in the performance of an official duty (43 CFR 9212.2(3).

Violation of these prohibitions is punishable by a fine of not more than $1,000.00 or to imprisonment of not more than 12 months, or both (43 CFR 9212.4).

FOR FURTHER INFORMATION CONTACT: Scott Boyd, Fire Management Officer, Bureau of Land Management, Spokane District Officer, 1103 N. Fancher Road, Spokane, Washington, 99212; or call (509) 536–1200.

Dated: August 1, 2001.

Gary J. Yeager,

Acting District Manager.

[FR Doc. 01–21056 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–014–01–1610-PG; HAG–01–0227]

Meeting Notice for the Klamath Provincial Advisory Committee

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Klamath Provincial Advisory Committee (PAC) will meet at the North State Blood Center, 1876 Park Marina Drive, Redding, CA, 96001 on Thursday, September 6, 2001 from 12:45 PM to 5:30 PM and on Friday, September 7, 2001 from 8:30 AM to 2:30 PM. Among the topics to be discussed are Federal Energy Regulatory Commission relicensing of PacifiCorp facilities along the Klamath River, and Forest Reports on National Fire Planning. The entire meeting is open to the public. Information to be distributed to the Committee members is requested 10 days prior to the start of the meeting. An opportunity for public comment is scheduled for 5:00 PM to 5:30 PM on Thursday, September 6, 2001.

FOR FURTHER INFORMATION: Additional information concerning the Klamath PAC may be obtained from Teresa Raml, Field Manager, Klamath Falls Resource Area, 2795 Anderson Ave., Building 25, Klamath Falls, OR 97603, Phone Number 541–883–6916, FAX 541–884–2097, or e-mail *traml@or.blm.gov.*

Dated: August 3, 2001.

Teresa A. Raml,

Field Manager, Klamath Falls Resource Area.

[FR Doc. 01–21062 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–200–01–1020–00]

Science Advisory Board

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Land Management (BLM) announces a public meeting of the Science Advisory Board to discuss DOI science goals, update recent BLM science initiatives, receive a briefing on the President's Energy Plan, and to discuss science and management of the National Landscape Conservation System units.

DATES: BLM will hold the public meeting on Tuesday, September 18, 2001, from 9 a.m. to 5 p.m. local time.

ADDRESSES: BLM will hold the public meeting at the Bureau of Land Management, Room 5622, 1849 C Street, NW., Washington, DC.

FOR FURTHER INFORMATION, CONTACT: Lee Barkow, Bureau of Land Management, Denver Federal Center, Building 50, P.O. Box 25047, Denver, CO 80225–0047, 303–236–6454.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Public Law 92–463).

I. The agenda for the Public Meeting is as Follows

9 a.m.—Introduction and Opening Remarks
9:30 a.m.—DOI Science Goals
10:30 a.m.—Update on Recent BLM Science Initiatives
1 p.m.—Briefing on the President's Energy Plan
2:45 p.m.—The National Landscape Conservation System—A Discussion on Science and Management of the Units
4 p.m.—Open Discussion by the Board and Drafting of Recommendations to the Director

II. Public Comment Procedures

Participation in the public meeting is not a prerequisite for submittal of written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on BLM's use of science are those that are either supported by quantitative information or studies or those that include citations

to and analysis of applicable laws and regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments, where practicable. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom on Information Act (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by the law. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or business will be in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address

Commenters may transmit comments electronically via the Internet to: lee_barkow@blm.gov. Please include the identifier ''Science4'' in the subject of your message and your name and address in the body of your message.

III. Accessibility

The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION, CONTACT** two weeks before the scheduled hearing date. Although BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Lee Barkow,

Director National Science and Technology Center.

[FR Doc. 01–21059 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–040–01–1310–PB]

Field Office Name Change

AGENCY: The Bureau of Land Management, Department of the Interior.

ACTION: Oklahoma Field Office name change.

SUMMARY: Effective April 12, 2001, the Bureau of Land Management's Tulsa Field Office and Moore Field Station officially changed to one name. While continuing to serve the public from two physical sites, both locations are now considered the Oklahoma Field Office. The name change is intended to reinforce BLM's goal of serving its customers as one Oklahoma team. In addition, the Oklahoma Field Office retains its respective jurisdictional duties within Oklahoma, Kansas, New Mexico, and Texas.

FOR FURTHER INFORMATION CONTACT: Christine Tincher, Bureau of Land Management, Oklahoma Field Office, 221 N. Service Road, Moore, Oklahoma 73160, telephone (405) 790–1009.

Dated: August 6, 2001.

John Mehlhoff,

Oklahoma Field Manager.

[FR Doc. 01–21058 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–01–1020–BJ]

Notice of Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication.

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 13 W., approved July 9, 2001, for Group 987 NM;
T. 13 N., R. 16 W., approved July 12, 2001, for Groups 873 and 965 NM;
T. 13 N., R. 17 W., approved July 12, 2001, for Groups 873 and 965 NM;
T. 14 N., R. 17 W., approved July 12, 2001, for Groups 873 and 965 NM;
Abandoned Ft. Wingate Military Reservation, approved July 12, 2001, for Groups 873 and 965 NM;
T. 15 N., R. 16 W., approved July 12, 2001, for Groups 873 and 965 NM;
T. 15 N., R. 17 W., approved July 12, 2001, for Groups 873 and 965 NM;
Tps. 14 and 15 N., R. 15 W., approved July 12, 2001, for Groups 873 and 965 NM;
T. 14 N., R. 16 W., approved July 12, 2001, for Groups 873 and 965 NM;
The Ft. Wingate Depot Activity, approved July 12, 2001, for Groups 873 and 965 NM.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: July 31, 2001.

John P. Bennett,

Chief Cadastral Surveyor for New Mexico.

[FR Doc. 01–21060 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–950–1420–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

The plats of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., August 1, 2001.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 50 N., R. 74 W., Sixth Principal Meridian, Wyoming,

Group No. 634, was accepted July 30, 2001.

The plat representing the dependent resurvey of the south and north boundaries and the subdivisional lines, T. 51 N., R. 74 W., Sixth Principal Meridian, Wyoming, Group No. 653, was accepted July 30, 2001.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the metes and bounds survey of Tract 37, T. 50 N., R. 84 W., Sixth Principal Meridian, Wyoming, Group No. 663, was accepted July 30, 2001.

The plat representing the dependent resurvey of portions of the subdivisional lines, and Mineral Surveys Nos. 50, 80, 89, 183 and 509, the subdivision of section 30 and the metes and bounds surveys of Lots 16, 19 and 24, section 20, T. 29 N., R. 100 W., Sixth Principal Meridian, Wyoming, Group No. 680, was accepted July 30, 2001.

Dated: August 1, 2001.

John P. Lee,

Chief Cadastral Survey Group.

[FR Doc. 01–21057 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 13, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E–Mail King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: Benefit Appeals Report.

OMB Number: 1205–0172.

Affected Public: State, Local, or Tribal Government.

Reporting requirements	Number of respondents	Frequency	Number of annual responses	Average response time (hours)	Burden hours
ETA–5130, Regular Benefits	53	Monthly	636	1	636
ETA–5130, Extended Benefits	2	On occasion (6/year)	12	1	12
Total			648		648

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Data reported on the form ETA–5130 is used to monitor the benefit appeals process and to develop plans for remedial action. The report is also used for budgeting and for workload data.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–21020 Filed 8–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Caribbean Labor Market Information System Project

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of availability of funds and solicitation for cooperative agreement applications (SGA 01–10).

This Notice Contains All of the Necessary Information and Forms Needed To Apply for Cooperative Agreement Funding.

SUMMARY: The U.S. Department of Labor, Bureau of International Labor Affairs (ILAB), will award funds through a cooperative agreement to one organization to support the development and implementation of a labor market information system in the English-speaking Caribbean and Suriname. The countries include Trinidad and Tobago, Jamaica, Barbados, the Bahamas, Antigua and Barbuda, St. Vincent and the Grenadines, Suriname, Guyana, Belize, Dominica, Grenada, Saint Lucia, and the Federation of Saint Christopher and Nevis. ILAB is seeking applications from qualified organizations to facilitate the development of more effective employment and labor market policies in the region by generating reliable, timely, and internationally comparable labor market information. This is the second phase of an existing project begun in April 2000.

DATES: The closing date for receipt of applications is September 12, 2001. Applications must be received by 4:45 p.m. (Eastern Daylight Savings Time) at the address below. No exceptions to the mailing and hand-delivery conditions set forth in this notice will be granted. Applications that do not meet the conditions set forth in this notice will not be honored. Telefacsimile (FAX) applications will not be accepted.

ADDRESSES: Application forms will not be mailed. They are published in the **Federal Register**, which may be obtained from your nearest U.S. Government office or many public libraries. Applications must be hand-delivered or submitted by mail to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N5416, Attention:

Lisa Harvey, Reference: SGA 01–10, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Questions concerning this solicitation may be sent to Lisa Harvey at the following e-mail address: harvey-lisa@dol.gov. All inquires should reference SGA 01–10.

SUPPLEMENTARY INFORMATION: ILAB, U.S. Department of Labor (USDOL, Department, or Grantor), announces the availability of funds to be granted through a cooperative agreement to one qualifying organization for the purpose of achieving more reliable labor market information in the English-speaking Caribbean and Suriname in support of developing more effective employment and labor market policies in the region. The cooperative agreement is to be actively managed by the Office of Foreign Relations (OFR), ILAB, to assure achievement of the stated goal. Applicants are encouraged to be creative in proposing cost-effective interventions that will have a demonstrable impact on improving the labor market information systems in the English-speaking Caribbean and Suriname.

Definitions: (a) *Social statistics* include areas such as education, poverty, health and labor. (b) *Social partners* are government, trade unions and employer organizations. (c) *Working culture* refers to the development of an environment within an organization that supports the belief that labor market information is essential to policy formulation.

I. Background and Program Scope

A. USDOL Technical Assistance

The OFR carries out a worldwide international technical assistance program to improve the welfare of workers through expanding economic opportunity and income security for workers, protecting the basic rights of workers, and reducing the prevalence of HIV/AIDS through workplace education. This SGA seeks one qualified organization to develop and implement a labor market information system project in the English-speaking Caribbean and Suriname in support of expanding economic opportunity and income security for workers.

B. Labor Market Information System—Phase One

In phase one of the labor market information system project in the English-speaking Caribbean and Suriname, USDOL dedicated much of its efforts to help build and enhance the capacity for the production and use of labor market information at the national and regional levels. USDOL has successfully implemented intensive activities of technical support and training. This technical assistance consisted of training to enhance the institutional framework of Ministries of Labor and Central Statistical Offices in the English-speaking Caribbean and Suriname to support labor market information through an improved human resource base. Specific training activities included:

1. Direct Technical Assistance

The Bureau of Labor Statistics provided current senior employees and recommended recent retirees to serve as technical experts in the areas of sample design and labor force data collection and analysis. They worked in the countries for one week periods of time providing direct technical assistance to Ministries of Labor and Central Statistical Offices to develop labor force surveys. The experts also attempted to facilitate a better level of communication between the Ministries of Labor and Central Statistical Offices in the countries.

2. Seminar on Linking Labor Market Information to Labor Market Policy

The purpose of the meeting was to illustrate the link between labor market information and the needs of policymakers in government, trade unions, and employer organizations. The meeting was attended by high-level officials from the Ministries of Labor, Central Statistical Offices, trade unions, and employer organizations throughout the region.

3. Bureau of Labor Statistics Seminar on Sampling and Data Processing

The objective of the two-week training was to develop participants' capability to create sample frames for statistical surveys and process the survey data collected by utilizing statistical computing systems. The training was attended by labor market information staff from Ministries of Labor and Central Statistical Offices within the region.

4. Seminar on Labor Market Analysis

The objective of the two-week training was to enhance the ability of the countries to use labor market information to analyze employment and labor market issues and formulate policies in response to the challenges of globalization facing the region. The training was attended by labor market information staff from the Ministries of Labor and Central Statistical Offices in the region and the social partners. The tripartite character of the training reinforced social dialogue and a better understanding from all parties on the importance of labor market information.

5. Bureau of Labor Statistics Seminars

Technical staff from Ministries of Labor and Central Statistical Offices in the region attended USDOL's Bureau of Labor Statistics Seminars on Employment and Unemployment and Labor Market Information.

During the implementation of phase one, ILAB partnered with various agencies within USDOL as well as international and regional organizations and experts to ensure that the necessary skills and knowledge were disseminated within a national and regional context. Applicants may review Phase One background information at the following website: http://www.dol.gov/dol/ilab/public/programs/ofr/procurement/main.htm

C. Regional Challenges

National development strategies and programs in the Caribbean have increasingly stressed the role of employment policies and the need to strengthen the capability in the region to design and monitor such policies. Human resources are central to the development process of the Caribbean. With their small, but well-educated populations, human capital is considered the key to successful economic development. Highly skilled and semi-skilled human resources in the region however, are becoming increasingly mobile in the current international environment. The developments in the new global financial order and more open international trade regimes under the World Trade Organization (WTO) rules have further placed these small vulnerable economies and their labor markets under formidable pressure to adjust. The main challenge of these countries is to create new institutional capacities to deal with a rapidly changing environment. Due to this, there has been a growing need for social statistics, in particular labor statistics. As a result, labor market information has been identified as an essential tool to improve the functions of the labor market in the region.

Furthermore, there is a need for comparability of labor statistics among countries in the Western Hemisphere. This need will become more urgent with the expansion of a free trade area throughout the Hemisphere.

The Caribbean has made great efforts in the last decade to establish and sustain a capability for producing labor market statistics. The level of labor market information system development however, varies widely across the

region. The larger countries have created some of the basic building blocks to develop a concrete labor market information system and in some cases attempted to automate their systems, while the smaller countries have yet to establish the most basic elements of a labor market information system. Still, all the countries are faced with obstacles such as scarcity of funds, weakness of analysis and projections, and unavailability of consistent data collected from the field in their systems.

All actors involved in the process of regionalization and globalization need credible and timely labor market information to successfully respond to the aforementioned issues. Labor market information systems in the region however, are relatively weak and therefore are unable to play this critical policy role.

II. Authority

ILAB is authorized to award and administer this project by the Consolidated Appropriations Act, 2001, Pub. L. No. 106–554, 114 Stat. 2763A–10 (2000).

III. Application Process

A. Eligible Applicants

Any organization capable of successfully developing and implementing a labor market information system project in the English-speaking Caribbean and Suriname in order to facilitate the development of more effective employment and labor market policies in the region is eligible to apply for this cooperative agreement award. The capability of an applicant to perform necessary aspects of this solicitation will be determined under Section V(B) Rating Criteria.

Please Note That Eligible Cooperative Agreement Applicants Must Not Be Classified Under The Internal Revenue Code As A Section 501(c)(4) Entity. See 26 U.S.C. 506(c)(4). According to Section 18 of the Lobbying Disclosure Act of 1995, 2 U.S.C. 1611 an organization, as described in Section 501 (c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

B. Submission of Applications

One (1) ink-signed original, complete application plus two (2) copies, must be received by the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Washington, D.C. 20210, no later than 4:45 p.m. EDT, September 12, 2001.

The application must consist of two (2) separate parts. Part I of the application must contain the Standard Form (SF) 424, ''Application for Federal Assistance'' (Appendix A) (The entry on SF 424 for the Catalog of Federal Domestic Assistance Number (CFDA) is 17.700) and sections A–F of the Budget Information Form SF 424A (Appendix B). Part II must contain a technical proposal that demonstrates capabilities in accordance with the Statement of Work and the selection criteria. The applicant is advised that the Proposal must be based on the example listed in the Review Criteria.

To be considered responsive to this solicitation, the application must consist of the above-mentioned separate sections not to exceed 70 single-sided (8½″ x 11″), double-spaced, 10 to 12 pitch typed pages. *Any Proposals That Do Not Conform to These Standards May Be Deemed Non-Responsive to This Solicitation and May Not Be Evaluated.* Standard forms and attachments are not included in page limit.

The individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant.

Each proposal must include a table of contents and an abstract summarizing the proposal in not more than two (2) pages. The table of contents and abstract do not count against the page limitation of the technical proposal.

C. Acceptable Methods of Submission

Applications may be hand-delivered or mailed. Hand-delivered applications must be received by the Procurement Services Center by the date and time specified. Any application received at the Procurement Services Center after 4:45 p.m. September 12, 2001 will not be considered unless it is received before an award is made and:

a. It was sent by registered or certified mail no later than the fifth calendar day before September 12, 2001.

b. It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the above address; or

c. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, no later than 5:00 p.m. EDT at the place of mailing two working days, excluding weekends and Federal holidays, before September 12, 2001.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible on the envelope or wrapper, an application received after the above closing time and date will not be considered. ''Postmark'' means a printed, stamped, or otherwise placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants must request that the postal clerk place legible hand cancellation bull's-eye postmark on both the receipt and the wrapper or envelope.

The only acceptable evidence to establish the date of mailing of a late application sent by the U.S. Postal Service Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the ''Express Mail next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants must request that the postal clerk place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt of a hand-delivered application at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence of receipt maintained by that office.

Applications sent by e-mail, telegram, or telefacsimile (FAX) will *not* be accepted.

D. Funding Levels

Approximately $1 million is available for this project, to fund activities in thirteen (13) countries of the English-speaking Caribbean and Suriname.

E. Length of Grant Period

The performance period for the cooperative agreement awarded under this SGA is three (3) years. Each applicant must reflect in its application the intention to begin operation no later than September 30, 2001.

IV. Requirements

A. Statement of Work

Applicants must propose work in all of the following areas in the English-speaking Caribbean and Suriname:

1. Participate in design missions to develop a strategy for project implementation;

2. Develop an institutional framework/plan by evaluating national classifications, labor force surveys,

productivity data, and occupational wages;

3. Develop a program that aims to achieve more effective employment and training programs that are responsive to the new challenges of regional and hemispheric integration and globalization by generating reliable, timely and internationally comparable labor market information. To accomplish this, the following must be provided:

a. A standard research methodology and set of critical labor market indicators that are consistent with international occupational classification system norms accepted by members of Caribbean Community (CARICOM) and utilized in phase one, as well as supportive of the current efforts within the Caribbean to adopt a set of acceptable indicators for the region. International, regional, and national specialists should be used in the development of the methodology and indicators to ensure a connection between international standards and regional and national standards;

b. Based on the establishment of labor market indicators, a computerized data base utilizing the international and regional recognized occupational classification system is created to house, access, and analyze the labor market data in order to make labor market information more timely and accessible; and

c. A labor market information database within six (6) countries that is linked to regional and global labor market databases and utilizing the international and regional recognized occupational classification system. This would include the development and implementation of software in each country, design the database avoiding duplication of previous international efforts, and input the data in the required format into the system.

4. Conduct extensive training using regional experts and the expertise of the U.S.

Bureau of Labor Statistics on the national and regional level to enhance the ability to utilize labor market information in support of labor market policy development, to adopt a set of standards and guidelines for labor market information, to provide technical assistance, and to engage the social partners in understanding the relevance of labor market information;

5. Facilitate sustainability of the project;

a. Develop a working culture within the government and the social partners to foster the belief that accurate and timely labor market information is fundamental to sound policy and workforce development;

b. Ensure the labor market information professionals are trained in the proper techniques and given the necessary tools to collect, analyze, and disseminate labor market information to all partners; and

c. Draw employers, trade unions, educational and training institutions and policy markers more closely into the production, use, and dissemination of labor market information by showing that it has a direct impact on their actions.

6. Monitoring, reporting, and self-evaluation: regularly monitoring project outcomes and reporting to ILAB on project performance and conducting mid-term and final evaluations to ensure that the project objectives are met.

B. Deliverables

Unless otherwise indicated, the applicant must submit copies of all required reports to ILAB by the specified due dates. Other documents, such as project designs, are to be submitted by mutually agreed-upon deadlines.

1. A project workplan, budget, project logical framework, and key personnel organizational chart is submitted to ILAB;

2. A sustainability plan that illustrates how intended project outputs will continue beyond the scope of the project is submitted to ILAB;

3. A labor market information institutional framework is submitted to ILAB;

4. An evaluation of existing national occupational classifications, labor force surveys, productivity data, and occupational wages conducted in all countries is submitted to ILAB;

5. A standard research methodology is created;

6. A set of labor market indicators comparable with regional and international standards is designed;

7. A computerized database is designed and implemented;

8. A labor force survey is created and conducted and a survey report is produced;

9. Software is developed and implemented to support the computerized database;

10. Regional seminars with the Ministries of Labor, Central Statistical Offices, and social partners are conducted to adopt a set of core regional standards for labor statistics;

11. A regional seminar is conducted for high level policy makers in the Ministries of Labor and Central Statistical Offices to illustrate the importance of labor market information to labor market policy;

12. National seminars are conducted to implement labor market information institutional framework;

13. National seminars are conducted on the results of the labor force surveys;

14. Ministry of Labor and Central Statistical Office staff are trained in labor market information database and software;

15. A network of individuals is established and trained in the area of labor market analysis so that they can disseminate this information to the relevant partners within their respective countries;

16. A project director living full time in Port of Spain, Trinidad;

17. An office in Port of Spain, Trinidad is established within three months of grant award and maintained. The project manager and project office need to be based in Port of Spain, Trinidad for the following reasons: First, the umbrella trade union group, the Caribbean Congress of Labour, and the umbrella employers' group, the Caribbean Employers' Confederation, are located in Port of Spain, Trinidad. Open lines of communication and easy access to them will be essential to the development of the tripartite partnership necessary for this project. Second, Port of Spain, Trinidad offers daily non stop and connecting flights to the participating countries as well as the daily flights to the United States. The ability to travel easily will enable the project manager to be accessible to the participants of the project in case issues arises with implementation. Finally, Port of Spain, Trinidad is more technologically advanced than the other cities in the region. The internet is widely utilized in the country and is less expensive than in the other countries. This will allow better communication with USDOL regarding project implementation.

18. Periodic visits to countries to evaluate project progress are conducted and corrective actions are taken where necessary aftering consulting with ILAB;

19. Trip Reports. Within ten (10) days of the conclusion of any trip, a two-page trip report (exclusive of contact information) is submitted to ILAB, including purpose of trip, places and dates, list of meetings, site visits, problems encountered, accomplishments, next steps, and an annex of names and contact information of persons met;

20. Project Designs. The standard project document format established by ILAB will be used, and will include a background/justification section, project strategy (objectives, outputs, activities,

indicators), institutional framework, project implementation timetable, project management organizational chart, project budget, and project logical framework. The document will also include sections which cover coordination strategies, project management, and sustainability of project improvements involving government, employers' and workers' organizations, as well as other non-governmental organizations as appropriate;

21. Technical Progress Reports. The grantee must furnish a typed technical report to ILAB on a quarterly basis by 30 March, 30 June, 30 September, and 31 December of each year. The grantee must also furnish a separate financial report to ILAB on the same quarterly basis. The format for the technical progress report will be the standard format developed by ILAB and must contain the following information:

a. For each project objective, an accurate account of activities carried out under that objective during the reporting period;

b. An accounting of staff and any subcontractor hours expended;

c. An accounting of travel performed under the cooperative agreement during the reporting period, including purpose of trip, persons or organizations contacted, and benefits derived;

d. A description of current problems that may impede performance, and proposed corrective action;

e. For each project objective, a discussion of the work to be performed during the balance of the cooperative agreement; and

f. Aggregate amount of costs incurred during the reporting period.

22. Evaluation Plan. An evaluation plan for all projects, to be developed in collaboration with ILAB, including beginning and ending dates for projects, planned and actual dates for mid-term reviews, and final end of project evaluations;

23. Evaluation Reports. The grantee and the Grant Officer's Technical Representative (GOTR) will determine on a case-by-case basis whether mid-term evaluations will be conducted by an internal or external evaluation team. All final evaluations will be external in nature. The GOTR must approve the mid-term evaluation before further work is done. The grantee will respond to any comments and recommendation resulting from the review of the mid-term report; and

24. Final Report. A detailed final report with executive summary on project activities and outcomes is delivered and accepted by ILAB. The format of this report will be determined by ILAB and it will be delivered in both electronic and hard copy media.

C. Production of Deliverables

1. Material Prepared and Purchased Under the Cooperative Agreement

The grantee must submit to ILAB all media-related and educational materials developed under this grant for use in this project before they are reproduced, published, or used. The grantee must consult with ILAB to ensure that materials are compatible with ILAB materials relating to the program, i.e. public relations materials such as videos and a website. ILAB considers brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the program, education materials. ILAB will review materials for technical accuracy. ILAB will also review training curricula and purchased training materials for accuracy before they are used. The grantee must obtain prior approval from the Grant Officer for all materials developed or purchased under this grant.

Provide ILAB material that you publish, print or reproduce. All material produced by the grantee must be provided to ILAB in a digital format for possible publication on the Internet by ILAB.

2. Printing and Duplication

The grantee must comply with all duplicating and printing regulations issues by the Joint Commission on Printing under authority of 44 U.S.C. 103, 501, and 502. The term ''duplicating'' as used means material produced on single unit duplicating equipment not larger than 11 by 17 inches and which have a maximum image of 10¾ × 14¼ inches using direct image plates not requiring the use of negatives. The term ''printing'' as used must be constructed to include and apply to the processes of composition, platemaking, presswork, binding, and microform.

Under this grant, the grantee may duplicate up to a maximum of 5,000 copies of one page or 25,000 copies in the aggregate of multiple pages.

The grantee must not use funds under this grant to provide duplicating in excess of the quantities stated above nor provide printing without the written authorization of the Joint Committee on Printing. Such authorization must be requested and obtained from the Grant Officer through the Department Printing Officer. Nothing in this clause precludes the procurement of writing, editing, preparation of manuscript copy, or preparation of related illustrative materials.

3. Acknowledgement of USDOL Funding

In all circumstances, the following must be displayed on printed materials:

''Preparation of this item was funded by the United States Department of Labor under Cooperative Agreement No. (insert the appropriate grant number).''

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds must clearly state:

a. The percentage of the total costs of the program or project which will be financed with Federal money;

b. The dollar amount of Federal funds for the project or program; and

c. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

In consultation with ILAB, identification of USDOL's role will be determined to be one of the following:

a. The USDOL logo may be applied to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practices reports, and other publications of global interest. The grantee will consult with USDOL on whether the logo should be used on any such items prior to final draft or final preparation for distribution. In no event will the USDOL logo be placed on any item until USDOL has given the grantee written permission to use the logo, after obtaining appropriate internal USDOL approval for use of the logo on the item.

b. If the ILAB determines the logo is not appropriate and does not give written permission, the following notice must appear on the document:

''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

D. Administrative Requirements

1. General

Grantee organizations will be subject to applicable Federal laws (including provisions of appropriation law) and the applicable Office of Management and Budget (OMB) Circulars. Determination of allowable costs will be made in accordance with applicable Federal cost principles. The grant awarded under

this SGA will be subject to the following administrative standards and provisions, if applicable:

29 CFR part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.

29 CFR part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreement.

2. Subgrants/Contracts

Subgrants and contracts must be awarded in accordance with 29 CFR 95.40.

3. Key Personnel

The applicant must list the individuals(s) who have been designated by the grantee as having primary responsibility for the conduct and completion of all work in the project it proposes. The grantee agrees to inform the GOTR whenever it appears impossible for these individual(s) to continue work on the project as planned. The grantee may nominate substitute personnel for approval of the GOTR; however, the grantee must obtain prior approval from the Grant Officer for all key personnel. If the Grant Officer determines not to approve the personnel change, he/she reserves the right to terminate the cooperative agreement.

4. Encumbrance of Cooperative Agreement Funds

Cooperative agreement funds may not be encumbered/obligated by the grantee before or after the grant period of performance. Encumbrances/obligations outstanding as of the end of the cooperative agreement period may be liquidated (paid out) after the end of the cooperative agreement period. Such encumbrances/obligations may involve only commitments for which a need existed during the cooperative agreement period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the grantee's purchasing procedures and incurred within the grant period. All encumbrances/obligations incurred during the grant period must be liquidated within 90 days after the end of the grant period, if practicable.

5. Site Visits

The grantor, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If the grantor makes any site visit on the premises of the grantee or a subgrantee/contractor under this grant, the grantee must provide and must require its subgrantees/contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations must be performed in such a manner as will not unduly delay the work.

V. Review and Selection of Applications for Grant Award

A. The Review Process

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. Each complete application will be objectively rated by a technical panel against the criteria described in this announcement. The panel recommendations to the Grant Officer are advisory in nature. The Grant Office may elect to select a grantee on the basis of the initial proposal submission; or, the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of proposals, the evaluation process described above will be repeated to consider such revisions. The Grant Officer will make a final selection determination based on what is most advantageous to the Government, considering factors such as: panel findings, geographic presence of the applicants, and the availability of funds. The Grant Officer's determination for award under this SGA is final.

Note: Identification of an organization as a cooperative agreement recipient does not constitute approval of the grant application submitted. Before the actual cooperative agreement is awarded, the Grant Officer may enter into negotiations concerning such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the proposal.

B. Rating Criteria and Selection

The technical panel will review grant applicants against the criteria listed below on the basis of 100 points with up to an additional 5 points available for non-federal or leveraged resources.

The criteria are presented in the order of emphasis that they will receive.

1. Approach, Understanding of the Issue, and Budget Plan (40 Points)

a. Overview. This section of the proposal must explain:

(1) The applicant's proposed method for performing all the specific work requirements presented in this solicitation;

(2) The expected outcomes over the period of performance for each of the tasks; and

(3) The applicant's approach for producing all required deliverables.

The applicant must describe in detail the proposed approach to address each requirement, including all methods to be utilized, and scheduling of personnel and staff. The applicant must also explain the rationale for using the particular approach proposed. In addition, this section of the proposal must demonstrate the applicant's thorough knowledge and understanding of labor market information systems and policies in the English-speaking Caribbean and Suriname and work that has been done in this area by various organizations based upon their previous experience working on these issues in the region.

b. Workplan. The applicant must submit a workplan for the project that lists the immediate objectives, activities, and outputs during the life of the project, starting with the execution of the cooperative agreement and ending with the final report.

c. Technical Sample. The applicant must create a regional workplan and thirteen national workplans. The applicant must address the following points in the regional and national workplans:

(1) Describe the use of existing or potential infrastructure and the use of qualified personnel, including qualified local nationals to implement the project. The applicant must also include a project organization chart, demonstrating management structure, key personnel positions, and indicating proposed links with Government, business leaders, and trade unions. Applicants will not receive any points for actual communications with any person(s) or entities in the Caribbean region or for the creation of an infrastructure in the Caribbean region for this competitive grant process.

(2) Develop a list of activities and explain how each relates to the overall objective of achieving more reliable and timely labor market information systems in the English-speaking Caribbean and Suriname and increasing their policy relevance.

(3) Explain how appropriate information, education, and communication materials will be developed.

(4) Demonstrate how it would systematically report on project performance to measure the achievement of the project objective(s).

(5) Demonstrate how it would build local capacity to ensure that project efforts to improve the labor market information systems are sustained after completion of the project.

(6) Develop a budget for the project. NOTE: Applicants will not be evaluated on the size of the budget, but on the efficient allocation of resources and the priorities the applicant assigns to various expenditures.

d. Budget Plan. This section of the proposal must contain the applicant's budget plan for the project proposal explaining the costs for performing all of the requirements presented in this solicitation and for producing all required reports and other deliverables presented in this solicitation. Costs must include labor, equipment, travel, and other related costs.

e. Management Plan. This section also must include a management and staff loading plan. The management plan must include the following:

(1) A project organization chart and accompanying narrative which differentiates between elements of the applicant's staff and subcontractors or consultants who will be retained;

(2) A description of the functional relationship between elements of the project's organization; and

(3) The identity of the individual responsible for project management and the lines of authority between this individual and other elements of the project.

f. Staff Loading Plan. The staff loading plan must identify all key tasks and the person-days required to complete each task. Labor estimates for each task must be broken down by individuals assigned to the task, including subcontractors and consultants. All key tasks must be charted to show time required to perform them by months and weeks.

(1) Information provided on the experience and education background of personnel must indicate the following:

(a) The educational background and experience of all staff to be assigned to the project.

(b) The identity of key staff assigned to the project. ''Key staff'' are personnel who are essential to the successful operation of the project and completion of the proposed work and, therefore, may not be replaced or have their hours reduced without the approval of the Grant Officer.

(c) The special capabilities of staff that demonstrate prior experience in organizing, managing, and performing similar efforts.

(d) The current employment status of staff and availability for this project. The applicant must also indicate whether the proposed work will be performed by persons currently employed or is work dependent upon planned recruitment or subcontracting.

This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply with Federal cost principles (which can be found in the applicable OMB Circulars).

2. Experience and Qualifications of the Organization (35 Points)

a. The organization applying for the award must have experience in working directly with government Ministries, specifically the Ministries of Labor and Ministries of Finance, employers' organizations, and trade unionists in each of the countries of the English-speaking Caribbean and Suriname.

1. The capability of the organization may be demonstrated by one or more staff members assigned to oversee the project with experience in labor market information systems.

b. The organization applying for the award must have an understanding and working knowledge of global initiatives to develop and apply a set of internationally recognized labor market indicators.

c. The organization applying for the award must have an established office or must show that it is able to establish an office within three months of award as mentioned in deliverable number 17 in Port of Spain, Trinidad to facilitate project implementation.

d. The organization applying for the award must have unrestricted access to a network of labor market information technical experts based in the Caribbean region and worldwide.

e. The organization applying for the award must have an understanding of USDOL's previous efforts to strengthen the labor market information systems of the countries of the region.

f. The proposal must include information regarding its previous grants, contract, or cooperative agreements. This information must include:

(1) The organization for whom work was done;

(2) A contact person in that organization with his/her current phone number;

(3) The dollar value of the grant, contract or cooperative agreement for the project(s);

(4) The time frame and professional effort involved in the project(s);

(5) A brief summary of the work performed; and

(6) A brief summary of accomplishments.

3. Experience and Qualifications of Key Personnel (25 Points)

This section of the proposal must include sufficient information for judging the quality and the competence of key staff proposed to be assigned to the project proposed to assure that they meet the required qualifications. Successful performance of the proposed work depends heavily on the qualifications of the individuals committed to the project. Accordingly, in our evaluation of the applicant's proposal, we will place considerable emphasis on the applicant's commitment of key personnel qualified for the work involved in accomplishing the assigned tasks.

The following information must be furnished:

a. The applicant must designate a Program Director to oversee the project and other key personnel to perform the requirements for the program. The Program Director must have a minimum of three (3) years of professional and technical experience with the development of labor market information systems and labor market policy in the English-speaking Caribbean region. The Program Director must also have an established relationship with employers' organizations and trade unions in the region. The Program Director will be required to live full time in Port of Spain, Trinidad to implement the program.

b. An organizational chart showing the applicant's proposed organizational structure for performing task requirements for the project proposed, along with a description of the roles and responsibilities of all key personnel proposed for the project.

c. A resume for each key personnel to be assigned to the program. At a minimum, each resume must include: the individual's current employment status and previous work experience, including position title, duties performed, dates in position, employing organizations and educational background. Duties must be clearly defined in terms of role performed, i.e. manager, team leader, consultant, etc. Resumes must be included as attachments and will not be counted again in the page limitation.

d. The current employment status of key personnel proposed for work under the cooperative agreement, i.e., whether

personnel are currently employed by the organization or whether their employment depends upon planned recruitment or subcontracting. Note that the key management and professional technical staff members comprising the applicant's proposed team must be individuals who have prior experience with organizations working in similar efforts, and must be fully qualified to perform work specified in the Statement of Work. Where subcontractors or outside assistance is proposed, organizational control must be clearly delineated to ensure responsiveness to the needs of the USDOL.

4. Leveraging of Federal Funding (5 Points)

We will give up to five (5) additional rating points to proposals which include non-Federal resources that expand the dollar amount, size and scope of the proposal. The applicant may include any leveraging or co-funding anticipated. To be eligible for additional points in the criterion, the applicant must list the source(s) of funds, the nature and activities anticipated with these funds under this cooperative agreement, and any partnerships, linkages or coordination of activities, or cooperative funding.

Signed at Washington, D.C., this 15th day of August, 2001.

Lawrence J. Kuss,

Grant Officer.

BILLING CODE 4510–28–P

Appendix A: SF 424—Application Form

APPLICATION FOR FEDERAL ASSISTANCE

APPENDIX "A"

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name, telephone number and fax number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipa
D. Township
E. Interstate
F. Intermunicipal
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. 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:

☐☐-☐☐☐

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	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

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/PREAPPLICATION 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
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. *Personnel: Show salaries to be paid for project personnel which you are required to provide with W2 forms.*
2. *Fringe Benefits: Indicate the rate and amount of fringe benefits.*
3. *Travel: Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*
4. *Equipment: Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more. Also include a detailed description of equipment to be purchased including price information.*
5. *Supplies: Include the cost of consumable supplies and materials to be used during the project period.*
6. *Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*
7. *Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. *Total, Direct Costs: Add lines 1 through 7.*
9. *Indirect Costs: Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*
10. *Training /Stipend Cost: (If allowable)*
11. *Total Federal funds Requested: Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE: PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

Appendix B: SF 424A—Budget Information Form

APPENDIX B

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

***NOTE:** Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).*

[FR Doc. 01–20985 Filed 8–20–01; 8:45 am]
BILLING CODE 4510–28–C

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

115th Full Meeting of the Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 115th open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held Wednesday, September 12, 2001, in Conference Room N–5437 A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

The purpose of the meeting, which will begin at 1:00 p.m. and end at approximately 3:30 p.m. is for members to be updated on activities of the Pension and Welfare Benefits Administration and for chairs of this year's working groups to provide mid-year progress reports on their individual study topics.

Members of the public are encouraged to file a written statement pertaining to any topics the Council may be studying during 2001 by submitting 20 copies on before September 4, 2001 to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 219–8921. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 4 at the address indicated.

Organizations or individuals may also submit statements for the record without testifying Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 4, 2001.

Dated: Signed at Washington, DC this 15th day of August, 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–21021 Filed 8–20–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Challenges to the Employment-Based Healthcare System; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Wednesday, September 12, 2001, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study challenges to the employment-based healthcare system.

The session will take place in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for working group members to conclude taking testimony on the weaknesses, strengths and alternatives to employer-based health benefits.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 4, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 4.

Signed at Washington, DC this 15 day of August, 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–21022 Filed 8–20–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Increasing Pension Coverage, Participation and Savings; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group assigned by the Advisory Council on Employee Welfare and Pension Benefit Plans to study the issue of increasing pension coverage, participation and savings will hold an open public meeting on Tuesday, September 11, 2001, in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue NW., Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 am to approximately noon, is for Working Group members to conclude the taking of testimony from invited witnesses and engage in discussion concerning the factors which either encourage or inhibit the growth of pension plan coverage and, ultimately, retirement security.

Members of the public are encouraged to file a written statement pertaining to the topic by sending 20 copies on or before September 4, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202)219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 4.

Signed at Washington, DC this 15 day of August, 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–21023 Filed 8–20–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Planning for Retirement Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Tuesday, September 11, 2001, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study planning for retirement.

The session will take place in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1 p.m. to approximately 4 p.m., is for working group members to conclude hearing testimony on ways in which individuals can be encouraged to better plan for retirement.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 11, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 11, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 11.

Signed at Washington, DC this 15th day of August 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–21024 Filed 8–20–01; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND PLACE: 9:30 a.m., Tuesday, August 28, 2001.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: The one item is Open to the Public.

MATTER TO BE CONSIDERED:

7381 Highway Accident Report—Motorcoach Run-Off-the-Road Accident, New Orleans, Louisiana, on May 9, 1999.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100. Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, August 24, 2001.

FOR MORE FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: August 17, 2001.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 01–21177 Filed 8–17–01; 1:56 pm]

BILLING CODE 2533–01–M

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; Exemption

1.0 Background

The Exelon Generation Company, LLC, (the licensee) is the holder of Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77, which authorize operation of the Byron Station, Units 1 and 2, and Braidwood Station, Units 1 and 2. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

Each of the above facilities consists of two pressurized water reactors. The Byron units are located in Ogle County in Illinois and the Braidwood units are located in Will County in Illinois. This exemption refers to all four units.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (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 that ''The appropriate requirements on both the pressure-temperature limits and 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) Code, Section XI, Appendix G Limits.

To address provisions of amendments to the technical specifications (TS) P–T limits in the uprating submittal, the licensee requested in its supplement dated December 8, 2000, to its original submittal for power uprates for Byron and Braidwood, dated July 5, 2000, that the staff exempt Byron and Braidwood units from application of specific requirements of 10 CFR part 50, § 50.60(a) and appendix G, and substitute use of ASME Code Cases N–588 and N–640. This request, to apply these code cases to the proposed P–T limits, was later withdrawn by the licensee for application with the power uprate in a letter dated February 20, 2001. However, the licensee requested the NRC to complete its review of the exemption request for future P–T limit applications. 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, whereas, Code Case N–640 permits the use of 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, postulating a circumferentially-oriented flaw for the evaluation of the circumferential welds, as permitted by Code Case N–588, in establishing the P–T limits would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G. Further, since the K_{IC} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A–2200–1 provides greater allowable fracture toughness than the

corresponding K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1, using the K_{IC} fracture toughness, as permitted by Code Case N–640, in establishing the P–T limits would be less conservative than the methodology currently endorsed by 10 CFR part 50, appendix G. Considering both, an exemption to apply the Code Cases would be required by 10 CFR 50.60.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and when (2) special circumstances are present.

Postulations of Circumferential Flaws in Circumferential Welds (Code Case N–588)

The licensee proposed to revise future P–T limits in the pressure temperature limits report (PTLR) for Byron and Braidwood units using the postulation of a circumferentially-oriented reference flaw as the limiting flaw in an RPV circumferential weld in lieu of an axially-oriented flaw required by the 1995 Edition (1996 Addenda) of ASME Section XI, Appendix G.

Postulating the Appendix G reference flaw (an axially-oriented flaw) in a circumferential weld is physically unrealistic and overly conservative because the length of the flaw is 1.5 times the vessel thickness, which is much longer than the width of the reactor vessel girth weld. Industry experience with the repair of weld indications found during preservice inspection and data taken from destructive examination of actual vessel welds, confirms that all detected flaws are small, laminar in nature, and do not transverse the weld bead orientation. Therefore, any potential defects introduced during the fabrication process and not detected during subsequent nondestructive examinations, would only be expected to be oriented in the direction of weld fabrication. For circumferential welds, this indicates a postulated defect with a circumferential orientation.

An analysis provided to the ASME Code's Working Group on Operating Plant Criteria (WGOPC) (in which Code Case N–588 was developed) indicated that if an axial flaw is postulated on a circumferential weld, then based on the stress magnification factors (M_m) given in the Code Case for the inside diameter circumferential (0.443) and axial (0.926) flaw orientations, it is equivalent to applying a safety factor of 4.18 on the pressure loading under normal operating conditions. Appendix G requires a safety factor of 2 on the contribution of the pressure load in the case of an axially-oriented flaw in an axial weld, shell plate, or forging. By postulating a circumferentially-oriented flaw on a circumferential weld and using the appropriate stress magnification factor, the margin of 2 is maintained for the contribution of the pressure load to the integrity calculation of the circumferential weld. Consequently, the staff determined that the postulation of an axially-oriented flaw on a circumferential RPV weld is a level of conservatism that is not required to establish P–T limits to protect the RCS pressure boundary from failure during hydrostatic testing, heatup, and cooldown.

In summary, the ASME Section XI, Appendix G, procedure was developed for axially-oriented flaws, which is physically unrealistic and overly conservative for postulating flaws of this orientation to exist in circumferential welds. Hence, the NRC staff concurs that relaxation of the ASME Section XI, Appendix G, requirement by postulating a circumferentially-oriented flaw for the evaluation of the circumferential welds, as permitted by Code Case N–588, is acceptable and would maintain, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

Using the K_{Ic} Fracture Toughness Curve (Code Case N–640)

The licensee proposed to revise future P–T limits in the PTLR for Byron and Braidwood units using the K_{Ic} fracture toughness curve, in lieu of the K_{Ia} fracture toughness curve, as the lower bound for fracture toughness.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P–T operating limits curve is more technically correct than the K_{Ia} curve since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the initial conservatism of the K_{Ia} curve since 1974 when the curve was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P–T curves based on the K_{Ic} curve will enhance overall plant safety by opening the P–T operating window with the greatest safety benefit in the region of low temperature operations.

In summary, the ASME Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G, requirements by applying the K_{Ic} fracture toughness, as permitted by Code Case N–640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

The staff concurs with the licensee's determination that an exemption would be required to approve the use of Code Cases N–588 and N–640. The staff examined the licensee's rationale to support the exemption request and concurred that the use of the Code Cases would meet the underlying intent of these regulations. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR part 50, appendix G, of the ASME Code; and Regulatory Guide 1.99, Revision 2, the staff concludes that application of Code Cases N–588 and N–640, as described, would provide an adequate margin of safety against brittle failure of the RPV. This is also consistent with the determination that the staff has reached for other licensees under similar conditions based on the same considerations. Therefore, the staff concludes that pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances are present and that an exemption may be granted to allow use of the methodology of Code Cases N–588 and N–640 to revise future P–T limits in the PTLR for Byron and Braidwood units.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption as authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest.

Therefore, the Commission hereby grants Exelon Generation Company, LLC, exemption from the requirements of 10 CFR part 50, § 50.60(a) and 10 CFR part 50, appendix G, for Byron Units 1 and 2 and Braidwood Units 1 and 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment. The environmental assessment is published in the **Federal Register** (66 FR 38755).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 8th day of August 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–20991 Filed 8–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266 and 50–301]

Nuclear Management Company, LLC; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 201 and 206 to Facility Operating License Nos. DPR–24 and DPR–27 issued to the Nuclear Management Company, LLC (the licensee), which revised the Operating Licenses and Technical Specifications for the Point Beach Nuclear Plant, Units 1 and 2, respectively, located in Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance and shall be implemented by December 31, 2001. The implementation of the amendments include two license conditions that are being added to Appendix C of the Operating Licenses.

The amendments replace, in their entirety, the current TSs (CTS) with a set of improved TSs (ITS) based on (1) NUREG–1431, Revision 1, ''Standard Technical Specifications, Westinghouse Plants,'' dated April 1995, including subsequent approved changes to the standard TSs, (2) guidance provided in the Commission's ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132), and (3) 10 CFR 50.36, ''Technical Specifications,'' as amended July 19, 1995 (60 FR 36953). In addition, the amendments added two license conditions to Appendix C of the Operating Licenses that (1) require the relocation of certain CTS requirements into licensee-controlled documents, and (2) provide the schedule for the first performance of surveillance requirements that are new or revised in the amendments.

In addition to the amendments discussed above, Amendment Nos. 201 and 206 also include the implementation of a Core Operating Limits Report (COLR), which the licensee requested to be issued concurrent with the ITS amendment. This amendment relocates cycle-specific reactor parameter limits from the TSs to a licensee-controlled document called a COLR.

Amendment Nos. 201 and 206 also include the implementation of a Pressure Temperature Limits Report (PTLR), which the licensee requested to be issued concurrent with the ITS amendment. This amendment relocates pressure-temperature curves to a licensee-controlled document called a PTLR.

The applications for amendment comply 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 amendments.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with the action to convert to ITS was published in the **Federal Register** on June 22, 2001 (66 FR 33581). Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with the action to implement a COLR was published in the **Federal Register** on August 9, 2000 (65 FR 48740). Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with the action to implement a PTLR was published in the **Federal Register** on August 23, 2000 (65 FR 51364). No request for a hearing or petition for leave to intervene was filed following these notices.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment. The Environmental Assessment was published in the **Federal Register** on July 23, 2001 (66 FR 38329).

For further details with respect to the action see (1) the application for amendment dated November 15, 1999, as supplemented March 15, June 15, June 19, July 28, August 17, September 14, October 19 and December 21, 2000, February 6, February 23, March 19, May 11 and June 13, and July 27, 2001, (2) the application for amendment dated March 2, 2000, as supplemented August 14, 2000, (3) the application for amendment dated March 10, 2000, as supplemented November 20, 2000, and April 10, 2001, (4) Amendment No. 201 to License No. DPR–24 and Amendment No. 206 to License No. DPR–27, (5) the Commission's related Safety Evaluation, and (6) the Commission's Environmental Assessment. 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*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 8th day of August 2001.

For the Nuclear Regulatory Commission.

Beth A. Wetzel,

Senior Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–20992 Filed 8–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice Seeking Qualified Candidates for the Advisory Committee on Nuclear Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for resumès.

SUMMARY: Submit resumès to: Ms. Sherry Meador, ACRS/ACNW, Mail Stop T2E–26, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: The Commission established the Advisory Committee on Nuclear Waste (ACNW) to provide independent technical review of and advice on matters related to the management of nuclear waste, including all aspects of nuclear waste disposal facilities, as directed by the Commission. This encompasses activities related to both high- and low-level radioactive waste disposal facilities, including the licensing, operation, and closure of the facilities, rulemakings, and associated regulatory guides and technical positions developed to clarify the intent of NRC's high- and low-level waste regulations. As part of these activities, the ACNW reviews performance assessment evaluations of waste disposal facilities. Committee members are selected from a variety of engineering and scientific disciplines, such as risk assessment, chemistry, mechanical engineering, civil engineering, materials sciences, and the earth sciences. Currently, the Commission is seeking an additional individual with technical expertise in the area of health physics, dose assessment, and consequences modeling to augment the existing expertise of the 4-member committee. Committee members serve a 4 year term with the possibility of reappointment for a total service of 8 years.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear waste management matters, and the ability to solve complex technical problems. The Commission, in selecting its Committee members, considers the need for a specific expertise to accomplish the work expected to be before the ACNW. For this position, the expertise must be directly related to the area of health physics including dose assessment and consequence modeling. Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with diverse backgrounds, so that the membership on the Committee will be fairly balanced in terms of the points of view represented and functions to be performed by the Committee.

Candidates for ACNW appointments may be involved in or have financial interests related to NRC-regulated aspects of the nuclear industry. Because conflict-of-interest considerations may restrict the participation of ACNW members in ACNW activities, the degree and nature of any such restriction on an individual's activities as a member will be considered in the selection process. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities or discontinuance of certain contracts or grants. Information regarding these restrictions will be provided upon request.

A resumè describing the educational and professional background of the candidate, including any special accomplishments and professional references should be provided. Candidates should provide their current address, telephone number, and e-mail address. All candidates will receive careful consideration. Appointment will be made without regard to such factors as race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States and be able to devote approximately 50–100 days per year to Committee business. Applications will be accepted until November 16, 2001.

Dated: August 14, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–20995 Filed 8–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of August 20, 27, September 3, 10, 17, 24, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 20, 2001—Tentative

There are no meetings scheduled for the Week of August 20, 2001.

Week of August 27, 2001—Tentative

There are no meetings scheduled for the Week of August 27, 2001.

Week of September 3, 2001—Tentative

There are no meetings scheduled for the Week of September 3, 2001.

Week of September 10, 2001—Tentative

There are no meetings scheduled for the Week of September 10, 2001.

Week of September 17, 2001—Tentative

There are no meetings scheduled for the Week of September 17, 2001.

Week of September 24, 2001

Friday, September 28, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

9:30 a.m.—Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301–415–6607)

1:30 p.m.—Briefing on Threat Environment Assessment (Closed-Ex. 1)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/SECY/smj/schedule.htm.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: August 16, 2001.

Sandra M. Joosten,

Executive Assistant, Office of the Secretary.

[FR Doc. 01–21147 Filed 8–17–01; 12:20 pm]

BILLING CODE 7590–01–M

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 103(c)(6) of the Presidio Trust Act, 16 U.S.C. 460bb note, Title I of Pub. L. 104–333, 110 Stat. 4097, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held from 1:00 p.m. to 4:00 p.m. on Monday, September 17, 2001, at the Officers' Club, 50 Moraga Avenue, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

This public board meeting is the second public hearing regarding the draft Presidio Trust Implementation Plan (PTIP) and Environmental Impact Statement (EIS). Members of the public interested in commenting on the final PTIP or EIS will be provided with an opportunity at the meeting to make oral

comments for the record that will be considered by the Presidio Trust in the preparation of the final PTIP and EIS.

DATES: The meeting will be held from 1:00 p.m. to 4:00 p.m. on Monday, September 17, 2001.

ADDRESSES: The meeting will be held at the Officers' Club, 50 Moraga Avenue, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: Craig Middleton, Deputy Director for Governmental Affairs, Programs and Administration, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: (415) 561–5300.

Dated: August 15, 2001.

Karen A. Cook,

General Counsel.

[FR Doc. 01–21009 Filed 8–20–01; 8:45 am]

BILLING CODE 4310–4R–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

Rule 45; SEC File No. 270–164; OMB Control No. 3235–0154
Rule 52; SEC File No. 270–326; OMB Control No. 3235–0369
Rule 53; SEC File No. 270–376; OMB Control No. 3235–0426
Rule 54; SEC File No. 270–376; OMB Control No. 3235–0427
Rule 57(b) and Form U–33–S; SEC File No. 270–376; OMB Control No. 3235–0429
Rule 58 and Form U–9C–3; SEC File No. 270–400; OMB Control No. 3235–0457
Rule 71, Form U–12(I)–A, and Form U–12(I)–B; SEC File No. 270–161; OMB Control No. 3235–0173
Part 257; SEC File No. 270–252; OMB Control No. 3235–0306

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 collections of information under the Public Utility Holding Company Act of 1935 (Act) summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 45 imposes a filing requirement on registered holding companies and their subsidiaries under Section 12(b) the Act. Under the requirement, the companies must file a declaration seeking authority to make loans or otherwise extend credit to other companies in the same holding company system. Among others, the rule exempts from the filing requirement the performance of payment obligations under consolidated tax agreements. The 15 recordkeepers together incur about 46 annual burden hours to comply with these requirements.

Rule 52 permits public utility subsidiary companies of registered holding companies to issue and sell certain securities without filing a declaration if certain conditions are met. The purpose of collecting the information is to determine the existence of detriment to interests the Act was designed to protect. The Commission estimates that the total annual reporting and recordkeeping burden of collections under Rule 52 is 33 hours (33 responses × one hour = 33 burden hours).

Section 32 and 33 of the Act and Rules 53, 54, and 57(b) under the Act, permit, among other things utility holding companies registered under the Act to make direct or indirect investments in exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs''), as defined in Sections 32 and 33 of the Act, respectively, without the prior approval of the Commission, if certain conditions are met. Rules 53 and 54 do not create a reporting burden for respondents. Rule 53 does, however, contain recordkeeping and retention requirements. As required by Congress, the Commission mandates the maintenance of certain books and records identifying investments in and earnings from all subsidiary EWGs or FUCOs in order to measure their financial effect on the registered systems.

The Commission estimates that the total annual recordkeeping and record retention burden under Rule 53 will be a total of 160 hours (10 hours per respondent × 16 respondents = 160 burden hours). It is estimated that there will be no burden hours associated with Rule 54.

Under Rule 57(b) there is an annual requirement for any public utility company that owns one or more FUCOs to file Form U–33–S. The information contained in Form U–33–S allows the Commission to monitor overseas investments by public utility companies.

The Commission estimates that the total annual reporting burden under Rule 57(b) will be 30 hours (3 hours per respondent × filings = 30 hours).

Rules 53, 54, 57(b) each impose a mandatory recordkeeping requirement of this information collection. It is mandatory that qualifying companies provide the information required by Rules 53, 54 and 57(b). There is no requirement to keep the information confidential because it is public information.

Rule 58 allows registered holding companies and their subsidiaries to acquire energy-related and gas-related companies. Acquisitions are made, within certain limits, without prior Commission approval under Section 10 of the Act. However, within sixty days after the end of the first calendar quarter in which any exempt acquisition is made, and each calendar quarter thereafter, the registered holding company is required to file with the Commission a Certificate of Notification on Form U–9C–3 containing the information prescribed by that form. The Commission uses this information to determine the existence of financial detriment, regarding the acquisition of certain energy-related companies, to the interests the Act is designed to protect. The Commission estimates that the total annual reporting burden is 1,008 hours to comply with these requirements (63 respondents × 16 = 1,008 burden hours).

Rule 71 requires that certain information be filed by employees of registered holding companies who represent the companies' interests before Congress, the Commission or the Federal Energy Regulatory Commission on either Form U–12(I)–A or Form U–12(I)–B. The filings must provide, among other things, the identity of the representative, the person's position and compensation and a quarterly statement of those expenses not incurred in the ordinary course of business. Employees appearing for the first time must file this information on form U–12(I)–A within ten days of an appearance. Employees appearing on a regular basis may file the information in advance on Form U–12(I)–B, which will remain valid for the remainder of the year in which it was first filed and for the following two calendar years. Thereafter, it may be renewed for additional three-year periods within thirty days of the expiration of the prior filing.

The information collection prescribed by Form U–12(I)–A and Form U–12(I)–B is required by Rule 71 under the Act. Rule 71 implements Section 12(i) of the Act, which expressly requires the filing of the prescribed disclosure information with the Commission in the interest of investors and consumers. The Commission estimates that the total annual reporting burden of collections under Rule 71 is 167 hours (250 responses × forty minutes = 167 burden hours).

Part 257 generally mandates the preservation, and provides for the destruction, of books and records of registered public utility holding companies subject to Rule 26 under the Act and service companies subject to Rule 93. Part 257 prescribes which records must be maintained for regulatory purposes and which media methods may be used to maintain them. Further, it sets a schedule for destroying particular documents or classes of documents.

The Commission estimates that there is an associated recordkeeping burden of 25 hours in connection with the record preservation programs administered by registered holding companies under part 257 (25 recordkeepers × 1 hour = 25 burden hours).

The estimates of average burden hours are made for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. 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 Directory, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: August 7, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20973 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–5 and Form X–17A–5, SEC File No. 270–155, OMB Control No. 3235–0123.

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'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 17a–5 under the Securities Exchange Act of 1934 is the basic reporting rule for brokers and dealers, and Form X–17A–5, the Financial and Operational Combined Uniform Single Report, is the basic document for reporting the financial and operational condition of securities brokers and dealers.

The staff estimates that approximately 7,230 respondents respond to this collection of information 33,870 times annually, with a total burden of 12 hours for each response, based upon past submissions. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 17a–5 is 406,440 hours. The average cost per hour is $113. Therefore, the total cost of compliance for the respondents is $45,927,720.

Rule 17a–5 does not contain record retention requirements. Compliance with the rule is mandatory. Responses are kept confidential pursuant to paragraph 17a–5(a)(3). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20549; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 13, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20972 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension

Rule 17a–5(c); SEC File No. 270–199; OMB Control No. 3235–0199

Rule 17a–7; SEC File No. 270–147; OMB Control No. 3235–0131

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'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collections of information discussed below.

Rule 17a–5(c) under the Securities Exchange Act of 1934 (''Act'') requires certain broker-dealers who carry customer accounts to provide statements of financial condition to their customers. It is estimated that approximately 659 broker and dealer respondents with approximately 97,600,000 customer accounts incur an average burden of 542,222 hours per year to comply with this rule.

Rule 17a–5(c) does not contain record retention requirements. Compliance with the rule is mandatory. Responses are not confidential.

Rule 17a–7 requires non-resident brokers or dealers registered or applying for registration pursuant to Section 15 of the Act to maintain—in the United States—complete and current copies of books and records required to be maintained under any rule adopted under the Act. Alternatively, Rule 17a–7 provides that the non-resident broker or dealers may sign a written undertaking to furnish the requisite books and records to the Commission upon demand.

There are approximately 72 non-resident brokers and dealers. Based on the Commission's experience in this area, it is estimated that the average amount of time necessary to preserve the books and records as required by Rule 17a–7 is one hour per year. Accordingly, the total burden is 72 hours per year.

There are no individual record retention periods in Rule 17a–7. Compliance with the rule is mandatory. However, non-resident brokers and dealers may opt to provide the records upon request of the Commission rather than store it in the United States.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

August 10, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20974 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44703, File No. 4–208]

Joint Industry Plan; Notice of Filing and Order Granting Temporary Effectiveness of Amendment to Plan Establishing Procedures Under Rule 11Ac–5

August 15, 2001.

Pursuant to section 11A(a)(3) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 11Aa3–2 thereunder,[2] notice is hereby given that on July 11, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the national market system plan establishing procedures under Rule 11 Ac1–5 (''Joint-SRO Plan'' or ''Plan'').[3] The amendment proposes to add the CBOE as a participant to the Joint-SRO Plan. The Commission is publishing this notice and order to solicit comments from interested persons on the proposed Joint-SRO Plan amendment, and to grant temporary effectiveness to the proposed amendment through December 19, 2001.

I. Description and Purpose of the Amendment

The current participants to the Joint-SRO Plan are the American Stock Exchange LLC (''Amex''), Boston Stock Exchange, Inc. (''BSE''), Chicago Stock Exchange, Inc. (''CHX''), Cincinnati Stock Exchange, Inc. (''CSE''), National Association of Securities Dealers, Inc. (''NASD''), New York Stock Exchange, Inc. (''NYSE''), Pacific Exchange, Inc. (''PCX'') and Philadelphia Stock Exchange, Inc. (''Phlx''). The proposed amendment would add the CBOE as a participant to the Joint-SRO Plan.

The CBOE has submitted a signed copy of the Joint-SRO Plan to the Commission in accordance with the procedures set forth in the Plan regarding new participants. Section III(b) of the Joint-SRO Plan provides that a national securities exchange or national securities association may become a party to the Plan by: (i) Executing a copy of the Plan, as then in effect (with the only changes being the addition of the new participant's name in Section 11(a) of the Plan and the new participant's single-digit code in Section VI(a)(1) of the Plan) and (ii) submitting such executed plan to the Commission for approval.

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Joint-SRO Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed Joint-SRO Plan amendment that are filed with the Commission, and all written communications relating to the proposed Joint-SRO Plan amendment between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of the CBOE. All submissions should refer to File No. 4–208 and should be submitted by September 20, 2001.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Plan Amendment

After careful review, the Commission finds that the proposed Joint-SRO Plan amendment is consistent with the requirements of the Act and the rules and regulations thereunder.[4] Specifically, the Commission believes that the proposed amendment, which permits the CBOE to become a participant to the Joint-SRO Plan, is consistent with the requirements of section 11A of the Act, and Rule 11Aa3–2 thereunder. The Plan establishes appropriate procedures for market centers to follow in making their monthly reports required pursuant to Rule 11Ac1–5, available to the public in a uniform, readily accessible, and usable electronic format. The proposed amendment to include the CBOE as a participant in the joint-SRO Plan will contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system by facilitating the uniform public disclosure of order execution information by all market centers.

The Commission finds good cause to grant temporary effectiveness to the proposed Joint-SRO Plan amendment, for 120 days, until December 19, 2001. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow the CBOE to become a participant in the Joint-SRO Plan. on August 1st, the CBOE started trading QQQ (an Amex-listed exchange-traded fund that frequently trades over 50 million shares a day). The CBOE represents that it intends to comply with Rule 11Ac1–5 for QQQ and for any other product currently subject to the Rule that the CBOE may trade pursuant to unlisted trading privileges (''UTP''). As a Plan participant, the CBOE would have timely information on the Plan procedures as they are formulated and modified by the participants. The Commission finds, therefore, that granting temporary effectiveness of the proposed Joint-SRO Plan amendment is appropriate and consistent with section 11A of the Act.[5]

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 240.11Aa3–2.

[3] On April 12, 2001, the Commission approved a national market system plan for the purpose of establishing procedures for market centers to follow in making their monthly reports available to the public under Exchange Act Rule 11Ac1–5. *See* Securities Exchange Act Release No. 44177 (April 12, 2001), 66 FR 19814 (April 17, 2001).

[4] In approving this proposed Joint-SRO Plan amendment, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78k–1.

IV. Conclusion

It is therefore ordered, pursuant to section 11A of the Act[6] and Rule 11Aa3–2 thereunder,[7] that the proposed Joint-SRO Plan amendment is approved for 120 days, through December 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21019 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44702; File No. SR–Amex–2001–62]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC to Extend the eQPriority Pilot Program for Six Months

August 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on August 13, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for an additional six months Commentary .03 to Amex Rule 126 to continue a pilot program for processing electronically transmitted orders for the common stock of business corporations admitted to dealings on the Exchange (''eQPriority[sm]''. The text of the proposed rule change is available at the Office of the Secretary of the Exchange and from the Commission's Public Reference Room.

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 240.11Aa3–2.

[8] 17 CFR 200.30–3(a)(29).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex 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

On September 12, 2000, the Commission approved Amex's eQPriority initiative on a six-month pilot basis.[3] The pilot program was extended for six months on March 6, 2001.[4] Amex now seeks to extend the pilot for an additional six-month period.

eQPriority is intended to encourage persons to route marketable electronic orders to the Exchange by assuring them that orders sent to the specialist electronically will be filled either: (i) At the Amex Published Quote (''APQ'') up to the displayed size at the time the order is announced, or (ii) at an improved price. Amex believes that the program provides orders for stocks sent to the floor electronically with the optimal combination of speed, certainty of execution, and price improvement opportunities. eQPriority applies only to orders for common stock admitted to dealings; it is not available for orders for options, Exchange Traded Funds, or other Amex-listed securities. It also does not apply to openings and reopenings and to block trades executed at a ''clean-up'' price pursuant to Amex Rule 155. The eQPriority pilot is scheduled to expire on September 12, 2001.

eQPriority works in the following manner. Once the specialist announces the electronic order, members may not withdraw or modify bids and offers incorporated into the APQ on the opposite side of the market from the incoming order *except* to provide price improvement. When an eQPriority order is executed in part at an improved price, the remainder of the order is executed at the APQ up to the number of shares then available (*i.e.,* the size of the APQ at the time the order was announced, less any shares that provided price improvement). The eQPriority order does not have to match with any other trading interest on the same side of the market. In the event that an eQPriority order is larger than the APQ at the time the order is announced, the order is filled up to the size of the APQ according to the eQPriority procedures, and the unexecuted balance is filled according to the Exchange's customary auction market processes.

The purpose of eQPriority is to provide incoming electronic orders with an execution at the displayed offer (or lower) in the case of an electronic buy order, or at the displayed bid (or higher) in the case of an electronic sell order. eQPriority is not intended to allow an incoming electronic order to obtain priority over orders that already have established priority in the market. Thus, an eQPriority order does not have priority over bids and offers that were announced prior to the time that the eQPriority order is represented. This arises only in situations where the market is quoted at the minimum fractional variation and is best illustrated by an example. Assume the market is quoted 20.00 to 20.01, 5,000 by 5,000, and the bid represents a limit order on the book. Further assume that the specialist announces an eQPriority order to buy 1,000 and that a broker in the crowd is willing to sell 1,000 at 20. In this example, the limit order to buy on the book had established a bid of 20 prior to the representation of the eQPriority order. The booked limit order, consequently, would buy the 1,000 shares sold by the broker at 20, and the eQPriority order would be filled at 20.01.

2. Statutory Basis

Amex states that the proposed rule change is consistent with section 6(b) of the Act[5] in general and furthers the objectives of section 6(b)(5)[6] in particular in that it is designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest. Amex also states that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

[3] *See* Securities Exchange Act Release No. 43284 (September 12, 2000), 65 FR 57410 (September 22, 2000).

[4] *See* Securities Exchange Act Release No. 44049 (March 7, 2001), 66 FR 14947 (March 14, 2001).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex states that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Amex states that, because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (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 [7] and Rule 19b–4(f)(6) [8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Pursuant to Rule 19b–4(f)(6)(iii) under the Act,[9] the Commission may designate a shorter time period by which a proposed rule change filed under Rule 19b–4(f)(6) may become operative, if such action is consistent with the protection of investors and the public interest. Also pursuant to Rule 19b–4(f)(6)(iii), a self-regulatory organization that files a proposed rule change under rule 196–4(f)(6) must provide the Commission with a written notice of its intent to file the proposed rule change at least five business days prior to the date of filing, or such shorter time as designated by the Commission. Amex has requested that the Commssion waive the five-day notice and 30-day pre-operative periods.

The Commission finds that waiving the 30-day pre-operative periods is consistent with the protection of investors and the public interest. The Commission believes that the existing eQPriority pilot provides beneficial services to investors. Acceleration of the operative date will allow the pilot program to continue without interruption and ensure that the benefits of the program do not lapse. Accordingly, the Commission waives the 30-day pre-operative period, and the proposed rule change has become operative immediately.[10] For the same reasons, the Commission also waives the five-day notice period.

IV. Solicitation of Comments

Interested persons are invited to submit written date, 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2001–62 and should be submitted by September 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20978 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] 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. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44698; File No. SR–Amex–2001–57]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, LLC Relating to Suspension of Transaction Charges for Certain Exchange Traded Funds

August 14, 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 August 1, 2001, the American Stock Exchange, LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to suspend Exchange transaction charges for customer orders in the following Amex-listed Exchange Traded Funds: Nasdaq-100® Index Tracking Stock; Standard & Poor's Depositary Receipts®; DIAMONDS®; and iShares S&P 500 Index Fund™.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts 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 suspend transaction charges for customer orders

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

for the following Amex-listed Exchange Traded Funds: Standard & Poor's Depositary Receipts (Symbol: SPY); Nasdaq 100 Index Tracking Stock (QQQ); DIAMONDS (DIA); and iShares S&P 500 Index Fund (IVV).

Off-Floor orders (*i.e.,* customer and broker-dealer) in these securities currently are charged $.006 per share ($.60 per 100 shares), capped at $100 per trade (16,667 shares). Orders entered electronically into the Amex Order File from off the Floor (''System Orders'') for up to 5,009 shares are currently not assessed a transaction charge, while System Orders over 5,099 shares are subject to a $.006 per share transaction charge, capped at $100 per trade. Exchange transaction charges applicable to customer orders are now suspended. The Exchange will continue to impose, and is not suspending, existing transaction charges applicable to entities other than customers, including Exchange specialists, Registered Traders, and member organizations.

The Exchange believes a suspension of fees for these securities for customer orders is appropriate to enhance the competitiveness of executions in these securities on the Amex. The Exchange will reassess the fee suspension as appropriate, and will file any modification to the fee suspension with the Commission pursuant to section 19(b)(3)(A) of the Act.[3]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[4] in general, and furthers the objectives of section 6(b)(4)[5] in particular, in that it is intended to assure the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[6] and subparagraph (f)(2) of Rule 19b–4 thereunder[7] because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–57 and should be submitted by September 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20979 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44700; File No. SR–Amex–2001–34]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 by the American Stock Exchange LLC, Relating to Funds of the iShares Trust Based on Foreign Stock Indexes

August 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 25, 2001, the American Stock Exchange LLC (''Amex'' 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 Amex. On June 25, 2001, the Amex filed Amendment No. 1 to the proposal.[3] On July 18, 2001, the Amex filed Amendment No. 2 to the proposal.[4] On July 26, 2001, the Amex filed Amendment No. 3 to the proposal.[5] On

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Department, Amex, to Yvonne Fraticelli, Division of Market Regulation (''Division''), Commission, dated June 20, 2001 (''Amendment No. 1''). Amendment No. 1 deleted the S&P Global 700 Index Fund from the new series of the iShares Trust that the Amex proposes to list and trade.

[4] *See* letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Division, Amex, to Yvonne Fraticelli, Division, Commission, dated July 17, 2001 (''Amendment No. 2''). Amendment No. 2 provided additional information concerning the proposal, including (1) the minimum price variation for the proposed new series of iShares; (2) a description of the ''representative sample'' strategy that the Funds will use; (3) a description of the requirements for a Fund to qualify for tax treatment as a regulated investment company; (4) a description of indicative portfolio value for each Fund that the Amex will disseminate during regular Amex trading hours; (5) a clarification regarding the Balancing Amount used in the purchase of Creation Unit Aggregations; and (6) a representation that Morgan Stanley Capital International's (''MSCI'') has implemented procedures to prevent the misuse of material non-public information with regard to changes in the MSCI Europe, Australia, Far East (''EAFE'') Index.

[5] *See* letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Division, Amex, to Yvonne Fraticelli, Division, Commission, dated July 25, 2001 (''Amendment No. 3''). In Amendment No. 3, the Amex revised its proposal to, among other things: (1) Amend Amex Rule 1000A, Commentary .04 to indicate that transactions in iShares Index Funds of the iShares Trust may be effected until 4 p.m. or 4:15 p.m. (New York time) each business day, as specified by the Amex; (2) indicate that the Funds do not intend to concentrate in any particular industry, except

Continued

August 9, 2001, the Amex filed Amendment No. 4 to the proposal.[6] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment Nos. 1, 2, 3, and 4 from interested persons and is simultaneously approving the proposal, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to list and trade under Amex Rules 1000A *et seq.* the following fifteen series[7] of the iShares® Trust (each such series, an ''Index Fund'' or ''Fund''):[8] (1) the iShares S&P Global Consumer Discretionary Index Fund; (2) the iShares S&P Global Consumer Staples Index Fund; (3) the iShares S&P Global Energy Index Fund; (4) the iShares S&P Global Finances Index Fund; (5) the iShares S&P Global Health Care Index Fund; (6) the iShares S&P Global Industries Index Fund; (7) the iShares Global Information Technology Index Fund; (8) the iShares S&P Global Materials Index Fund; (9) the iShares S&P Global Telecommunication Services Index Fund; (10) the iShares S&P Global Utilities Index Fund; (11) the iShares S&P Global 1200 Index Fund; (12) the iShares S&P/TOPIX 150 Index Fund; (13) the iShares S&P Asia Pacific 100 Index Fund; (14) the iShares S&P Latin America 40 Index Fund; and (15) the iShares MSCI EAFE Index Fund (each individually a ''Fund'' and collectively the ''Fund'').

The text of the proposed rule change is available at the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, 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

In 1996, the Commission approved an Amex proposal to list and trade under Amex Rules 100A *et seq.* securities issued by an open-end management investment company that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index (''Index Fund Shares'').[9]

The Amex proposes to list and trade under Amex Rules 1000A *et seq.* the following fifteen series of the iShares® Trust:[10] (1) The iShares S&P Global Consumer Discretionary Index Fund; (2) the iShares S&P Global Consumer Staples Index Fund; (3) the iShares S&P Global Energy Index Fund; (4) the iShares S&P Global Financials Index Fund; (5) the iShares S&P Global Health Care Index Fund; (6) the iShares S&P Global Industrials Index Fund; (7) the iShares S&P Global Information Technology Index Fund; (8) the iShares S&P Global Materials Index Fund; (9) the iShares S&P Global Telecommunications Services Index Fund; (10) the iShares S&P Global Utilities Index Fund; (11) the iShares S&P Global 1200 Index Fund; (12) the iShares S&P/TOPIX 150 Index Fund; (13) the iShares S&P Asia Pacific 100 Index Fund; (14) the iShares S&P Latin America 40 Index Fund; and (15) the iShares MSCI EAFE Index Fund.

The index on which a particular Fund is based is referred to as an ''Underlying Index'' and the securities included in the Underlying Index are referred to as ''Component Securities.'' The Underlying Index for each Fund may consist of both U.S. and/or foreign stocks. Descriptions of the Underlying Indexes for the proposed Funds are available in the Commission;s Public Reference Room as Exhibits A through P of this filing.[11] The Exhibits include index descriptions, component selection criteria, index maintenance and issue changes, the top components of each index, and portfolio composition and characteristics.

Barclays Global Fund Advisors (the ''Advisor'') is the investment adviser to each Fund. The Advisor is registered under the Investment Advisers Act of 1940 and is a wholly owned subsidiary of Barclays Global Investors, N.A., a wholly-owned indirect subsidiary of Barclays Bank PLC of the United Kingdom.

SEI Investments Distribution Company (the ''Distributor''), a Pennsylvania corporation and broker-dealer registered under the Act, is the principal underwriter and distributor of Creation Unit Aggregations (as defined below) of iShares. The Distributor is not affiliated with the Amex or the Advisor.

iShares will be registered in book-entry form only and the Index Fund will not issue individual share certificates. DTC or its nominee will be the record or registered owner of all outstanding iShares. Beneficial ownership of iShares will be shown in the records of DTC or DTC participants.

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that each Fund will attempt to concentrate its investments to approximately the same extent that its Underlying Index concentrates in the stocks of a particular industry or group of industries; (3) indicate that the web site for the Funds will disclose the tracking error for each Fund and that the Advisor will notify the Fund's Board of Trustees if the tracking error for a Fund exceeds 5%; (4) indicate that the National Securities Clearing Corporation (''NSCC'') will make the Balancing Amount per Creation Unit Aggregation available to its members electronically on a daily basis; and (5) indicate that an ''Authorized Participant'' is either a broker-dealer or other participant in the continuous net settlement system of the NSCC or a participant in the Depository Trust Company (''DTC'').

[6] *See* letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Division, Amex, to Yvonne Fraticelli, Division, Commission, dated August 8, 2001 (''Amendment No. 4''). In Amendment No. 4, the Amex indicated that: (1) Barclays Global Fund Advisors will provide the NSCC on a daily basis with the names and required number of shares of the Deposit Securities in a Creation Unit Aggregation and the Balancing Amount, which the NSCC will make available to NSCC members through an electronic file that NSCC members can download; (2) the final dividend amount for each Fund is the amount of dividends to be paid by a Fund for the appropriate period (usually annually); and (3) the Funds will disseminate the final dividend amount to Bloomberg and other sources.

[7] The Amex amended its proposal to delete the iShares S&P Global 700 Index Fund as one of the series of the iShares Trust that the Amex proposes to list and trade. *See* Amendment No. 1, *supra* note 3.

[8] The iShares Trust (''Trust'') has filed with the Commission an Application for Orders (''Application'') under sections 6(c) and 17(b) of the Investment Company Act of 1940 (''1940 Act'') for the purpose of exempting the Index Funds of the Trust from various provisions of the 1940 Act and rules thereunder (File No. 812– 12254). The information provided in this Rule 19b–4 filing relating to the Index Funds is based on information included in the Application, which includes additional information regarding the Trust and the Index Funds.

[9] *See* Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) (order approving File No. SR–Amex–95–43) (''1996 Order'').

[10] The iShares Trust (''Trust'') has filed with the Commission an Application for Orders (''Application'') under sections 6(c) and 17(b) of the Investment Company Act of 1940 (''1940 Act'') for the purpose of exempting the Index Funds of the Trust from various provisions of the 1940 Act and rules thereunder (File No. 812–12254). The information provided in this Rule 19b–4 filing relating to the Index Funds is based on information included in the Application, which includes additional information regarding the Trust and the Index Funds.

[11] The Amex deleted Exhibit O, which described the S&P Global 700 Index, from its proposal. *See* Amendment No. 1. *supra* note 3.

Amendment to Amex Rule 1000A, Commentary .04

The Amex proposes to amend Amex Rule 1000A, Commentary .04 to indicate that transactions in iShares Index Funds of the iShares Trust may be effected until 4 p.m. or 4:15 p.m. (New York time) each business day, as specified by the Amex.[12] Shares of each Fund will trade with a minimum price variation of $.01.[13]

''Passive'' Indexing Investment Strategy

The investment objective of each Index Fund will be to provide investment results that correspond generally to the price and yield performance of its Underlying Index. In seeking to achieve its respective investment objective, each Fund will utilize a ''passive'' indexing investment strategy. Specifically, each Fund will utilize a ''representative sampling'' strategy to attempt to track its Underlying Index.[14] The Funds will attempt to hold a representative sample of the Component Securities in the applicable Underlying Index utilizing quantitative analytical models.[15]

A Fund will hold most of the Component Securities of its Underlying Index, but it may not hold all of the Component Securities of its Underlying Index. This may be the case, for example, when there are practical difficulties or substantial costs involved in compiling an entire Underlying Index basket which contains hundreds of Component Securities or, in certain instances, when a Component Security is illiquid.

Each fund will concentrate is holdings in investments in issuers of one or more particular industries approximately to the extent that its Underlying Index concentrates in the stocks of particular industry or industries.[16] From time to time, adjustments will be made in the portfolio of each Fund in accordance with changes in the composition of the Underlying Index or to maintain compliance as a regulated investment company under the Internal Revenue Code.[17]

At least 90% of each Fund's total assets will be invested in the component securities of its Underlying Index. Each Fund also may invest up to 10% of its total assets in stocks that are not included in its Underlying Index. For example, a Fund may invest in stocks not included in the relevant Underlying Index to reflect various corporate actions such as mergers and other changes in the relevant Underlying Index, such as reconstitutions, additions, and deletions. As long as a Fund invests at least 90% of its total assets in the stocks of its Underlying Index, it also may invest its other assets in futures contracts, options on futures contracts, options, and swaps related to its Underlying Index, as well as cash and cash equivalents.

It is expected that each Fund will have a tracking error relative to the performance of its respective Underlying Index of no more than 5%. Each Fund's investment objectives, policies and investment strategies will be fully disclosed in its propectus and statement of additional information (''SAI''). In addition, the web site for the Funds, *www.ishares.com,* will contain detailed information on the performance of each Fund, the performance of the Underlying Indexes, and the tracking error for each Fund.[18] The Funds' annual and semi-annual reports will include disclosure of the Funds' total return and each Underlying Index's total return for one-, five-, and 10-year periods, and graphs comparing values of hypothetical $10,000 investments in the Fund and its Underlying Index.[19] If the tracking error for a Fund exceeds 5%, the Advisor will notify the Trust's Board of Trustees (''Board'') and discuss appropriate actions with the Board.[20]

While each Fund will be managed by the Advisor, the Board will have overall responsibility for the Funds' operations. The composition of the Board is, and will be, in compliance with the requirements of section 10 of the 1940 Act.

Creation Unit Aggregations

Shares of each Fund (the ''iShares'') will be issued on a continuous offering basis in groups of 50,000 or more. These groups of shares are called ''Creation Unit Aggregations.'' The Funds will issue and redeem iShares only in Creation Unit Aggregations. iShares will be issued at the net asset value (''NAV'') per share next determined after an order in proper from is received. The NAV per share of each Fund is determined as of the close of the regular trading session on the New York Stock Exchange (''NYSE'') on each day that the NYSE is open. It is expected that as of the inception date of each Fund, the value of a Creation Unit Aggregation for each Fund will range from approximately $2 million to approximately $7.3 million.

Orders to create iShares must be placed through an Authorized Participant, which is either: (1) A broker-dealer or other participant in the continuous net settlement system of the NSCC; or (2) a participant in the DTC.[21]

Purchasers generally will pay for Creation Unit Aggregations placed through the Distributor by an in-kind deposit with the Trust of a portfolio of securities designated by the Advisor to correspond generally to the price and yield performance of the Fund's Underlying Index (the ''Deposit Securities''), together with an amount of cash (the ''Balancing Amount'') specified by the Advisor. The Balancing Amount is an amount equal to the difference between (1) the NAV (per Creation Unit Aggregation) of the Fund; and (2) the total aggregate market value (per Creation Unit Aggregation) of the Deposit Securities (the ''Deposit Amount''). The Balancing Amount serves the function of compensating for differences, if any, between the NAV per Creation Unit Aggregation and that of the Deposit Amount. If the Balancing Amount is a positive number (*i.e.*, the NAV per Creation Unit Aggregation exceeds the Deposit Amount), the creator will pay the Balancing Amount to the Trust.[22] If the Balancing Amount is a negative number (*i.e.*, the NAV per Creation Unit Aggregation is less than the Deposit Amount), the creator will receive cash in an amount equal to the differently.[23] The deposit of the requisite Deposit Securities and the Balancing Amount are collectively referred to as a ''Portfolio Deposit.''

[12] *See* Amendment No. 3, *supra* note 5.

[13] *See* Amendment No. 2, *supra* note 4.

[14] *See* Amendment Nos. 2 and 3, *supra* notes 4 and 5.

[15] *See* Amendment No. 3, *supra* note 4.

[16] *See* Amendment No. 2, *supra* note 4.

[17] For a Fund to qualify for tax treatment as a regulated investment company, it must meet several requirements under the Internal Revenue Code. Among these is the requirement that, at the close of each quarter of the Fund's taxable year, (i) at least 50% of the market value of the Fund's total assets must be represented by cash items, U.S., government securities, securities of other regulated investment companies and other securities, with such other securities limited for purposes of this calculation is respect of any one issuer to an among not greater than 5% of the value of that Fund's assets and not greater than 10% of the outstanding voting securities of such issuer; and (ii) not more than 25% of the value of its assets may be invested in securities of any one issuer, or two or more that are controlled by the Fund (with the meaning of section 851(b)(4)(B) of the Internal Revenue Code) and that are engaged in the same or similar trades or businesses or related trade or businesses (other than U.S. government securities or the securities of other regulated investment companies) *See* Amendment No. 2, *supra* note 4.

[18] *See* Amendment No. 3, *supra* note 5.

[19] *See* Amendment No. 3, *supra* note 5.

[20] *See* Amendment No. 3, *supra* note 5.

[21] *See* Amendment No. 3, *supra* note 5.

[22] *See* Amendment No. 2, *supra* note 4.

[23] *See* Amendment No. 2, *supra* note 4.

Availability of Information Regarding the Portfolio Deposit

The Advisor will make available through the Distributor or on each business day prior to the opening of trading on the Exchange (currently 9:30 a.m. Eastern Time) the list of the names and the required number of shares of each Deposit Security included in the current Portfolio Deposit (based on information at the end of the previous business day) for the relevant Fund. The Portfolio Deposit will be applicable to a Fund (subject to any adjustments to the Balancing Amount, as described in the Application) to effect purchases of Creation Unit Aggregations of the Fund until such time as the next-announced Portfolio Deposit composition is made available.

In addition, the Advisor will provide the NSCC on a daily basis with the name and required number of shares of the Deposit Securities in a Creation Unit Aggregation and the Balancing Amount, which the NSCC will make available to NSCC members through an electronic file that NSCC members can download.[24]

The identity and number of shares of the Deposit Securities required for the Portfolio Deposit for each Fund will change from time to time. The composition of the Deposit Securities may change in response to adjustments to the weighting or composition of the Component Securities in the relevant Underlying Index. These adjustments will reflect changes, known to the Advisor to be in effect by the time of determination of the Deposit Securities, in the composition of the Underlying Index being tracked by the relevant Fund, or resulting from stock splits and other corporate actions. In addition, the Trust reserves the right with respect to each Fund to permit or require the substitution of an amount of cash (*i.e.*, a ''cash in lieu'' amount) to be added to the Balancing Amount to replace any Deposit Security under circumstances specified in the Application. When cash purchases of Creation Unit Aggregations are available or specified for a Fund, they will be effected in essentially the same manner as in-kind purchases of iShares. In the case of a cash purchase, the investor must pay the cash equivalent of the Deposit Securities it would otherwise be required to provide through an in-kind purchase, plus the same Balancing Amount required to be paid by an in-kind purchaser.

The Amex anticipates that institutional investors, arbitrageurs, and the Amex specialist primarily will make the deposit of Deposit Securities and the Balancing Amount in exchange for iShares.[24] Creation Units are separable upon issuance into identical shares which are listed and traded on the Amex. Professionals as well as institutional and retail investors will trade iShares on the Amex.

Availability of Information Regarding the Underlying Indexes

The providers of the Underlying Indexes have advised the Trust that on or before the first day of trading of each Fund, the value of its Underlying Index will be updated intra-day on a real-time basis as individual Component Securities change in price. These intra-day values of the Underlying Indices will be disseminated at regular intervals (currently expected to be every 15 second) throughout the trading day by organizations authorized by each respective Underlying Index provider. In addition, these organizations will disseminate values for each Underlying Index once each trading day based on closing prices in the relevant exchange market.

Availability of Information Regarding the Funds

The Trust intends to maintain a web site that will include, for each Fund, its prospectus and SAI, its Underlying Index and additional quantitative information that will be undated on a daily basis, including daily trading volume, closing price and closing NAV.

On amextrader.com, the Amex will disseminate the NAV for each Fund on a daily basis and the final dividend amounts that each Fund will pay.[26] The final dividend amount, which the funds will also disseminate to Bloomberg and other sources, is the amount of dividends to be paid by a Fund for the appropriate period (usually annually).[27] In addition, for each Fund the Amex will disseminate at the opening over the Consolidated Tape Association (''CTA'') Network B the number of iShares outstanding.[28]

The closing prices of the Funds' Deposit Securities are readily available from, as applicable, the Exchange's dissemination over Network B, published or other public sources in the relevant country, or on-line information services such as Bloomberg or Reuters. The exchange rate information required to convert such information into U.S. dollars is also readily available in newspapers and other publications and from a variety of on-line services.

Dissemination of Indicative Portfolio Value

To provide updated information relating to each Fund for use by investors, professionals, and persons wishing to create or redeem the proposed iShares, the Amex will disseminate through the facilities of the CTA an updated indicative portfolio value (''Value'') for each of the Funds traded on the Amex as calculated by a securities information provider (''Value calculator'').[29] The Amex anticipates that the methodology utilized in connection with the Funds will be similar to procedures used to calculate the Value for iShares trading currently on the Amex. The Value will be disseminated on a per iShares basis every 15 seconds during regular Amex trading hours of 9:30 a.m. to 4 p.m. or 4:15 p.m. Eastern Time,[30] depending on the time the Amex specifies for the trading of iShares. The equity securities values included in the Value are the same as the portfolio values generally utilized in connection with creations and redemptions of iShares in Creation Unit size aggregations on that day. The equity securities included in the Value generally reflect the same market capitalization weighting as the Deposit Securities in the portfolio for the particular iShares Fund. In addition to the value of the Deposit Securities for each Fund, the Value includes the Balancing Amount. The Value also reflects changes in currency exchange rates between the U.S. dollar and the applicable home foreign currency.[31]

The Value may not reflect the value of all securities included in the applicable Underlying Index. In addition, the Value does not necessarily reflect the precise composition of the current portfolio of securities held by each Fund at a particular point in time. Therefore, the Value on a per iShares basis disseminated during Amex trading hours should not be viewed as a real time update of the NAV of a particular Fund, which is calculated only once a day. While the Value that the Amex will disseminate at 9:30 a.m. is expected to be generally very close to the most recently calculated Fund NAV on a per iShare basis, it is possible that the value of the portfolio of securities held by a

[24] *See* Amendment No. 4 *supra* note 6.

[25] *See* Amendment No. 2, *supra* 4.

[26] *See* Amendment No. 3, *supra* note 5.

[27] *See* Amendment No. 4, *supra* note 6.

[28] *See* Amendment No. 3, *supra* note 5.

[29] *See* Amendment Nos. 2 and 3, *supra* note 4 and 5.

[30] Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Division, Amex, and Yvonne Fraticelli, Division, Commission, on August 6, 2001 (''August 6 Conversation'').

[31] *See* Amendment No. 2, *supra* note 4.

Fund may diverge from the Deposit Securities values during any trading day. In such case, the Value will not precisely reflect the value of the Fund portfolio.[32]

However, during the trading day, the Value can be expected to closely approximate the value per Fund share of the portfolio of securities for each Fund except under unusual circumstance (*e.g.,* in the case of extensive rebalancing of multiple securities in a Fund at the same time by the Advisor). The circumstances that might cause the Value to be based on calculations different from the valuation per Fund share of the actual portfolio of a Fund would not be different from circumstances causing any index fund or trust to diverge from an underlying benchmark index.[33]

The Amex believes that the dissemination of the Value based on the Deposit Securities provides additional information regarding each Fund that would not otherwise be available to the public and is useful to professionals and investors in connection with iShares trading on the Amex or the creation or redemption of iShares.[34]

For each Fund, the Value calculator will utilize closing prices (in applicable foreign currency prices) in the principal foreign market(s) for securities in the Fund portfolio, and convert the price to U.S. dollars. For funds that include foreign stocks the principal foreign markets for which have trading hours overlapping regular Amex trading hours, the Value calculator will update the applicable Value every 15 seconds to reflect price changes in the applicable foreign currency market or markets, and convert such prices into U.S. dollars based on the current currency exchange rate. When the foreign market or markets are closed but the Amex is open, the Value will be updated every 15 seconds to reflect changes in currency exchange rates after the foreign markets close.[35]

Redemption of Creation Unit Aggregations

Creation Unit Aggregations of each Fund will be redeemable at the NAV next determined after receipt of a request for redemption. Creation Unit Aggregations of each fund will be redeemed principally in kind, together with a balancing cash payment; however, as described in the Application, Creation Unit Aggregations sometimes may be redeemed for cash. Owners of iShares may sell their iShares in the secondary market, but must accumulate enough iShares to constitute a Creation Unit Aggregation to redeem through the Trust. Redemption orders must be placed through an Authorized Participant, which is either: (1) A broker-dealer or other participant in the continuous net settlement system of the NSCC; or (2) a participant in the DTC.[36]

Each Fund will redeem Creation Unit Aggregations in exchange for portfolio securities of the Fund (''Fund Securities'') in effect on the date a request for redemption is made and a specified cash amount, the ''Cash Redemption Amount,'' as defined below. Fund Securities received on redemption may not be identical to Deposit Securities deposited in connection with creations of Creation Unit Aggregations for the same day.[37] The Advisor will publish daily through the Distributor the list of securities which a creator of Creation Unit Aggregations must deliver to the Fund and which a redeemer will receive from the Fund.

The Cash Redemption Amount on any given business day will be an amount calculated in the same manner as that for the Balancing Amount, although the actual amounts may differ if the Fund Securities received upon redemption are not identical to the Deposit Securities applicable for creations on the same day. Specifically, the Cash Redemption Amount is an amount equal to the difference between the iShares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities. To the extent that the Fund Securities have a value greater than the NAV of the iShares being redeemed, the redeeming beneficial owner must make a compensating cash payment to the Fund equal to the differential between the value of the Fund Securities and the NAV of the iShares being redeemed.

The Trust may make redemptions in cash in lieu of transferring one or more Fund Securities to a redeemer if the Trust determines, in its discretion, that such method is warranted due to unusual circumstances. An unusual circumstance could arise, for example, when a redeeming entity is restrained by regulation or policy from transacting in certain Fund Securities, such as the presence of such Fund Securities on a redeeming investment banking firm's restricted list.

Other Characteristics of iShares

Each Fund will declare and pay dividends from net investment income at least annually in the same manner as other open-end investment companies. Certain of the Funds may pay dividends, if any, on a quarterly or more frequent basis.

The Trust will not make the DTC book-entry Dividend Reinvestment Service (the ''Service'') available for use by beneficial owners for reinvestment of their cash proceeds but certain individual brokers may make the Service available to their clients. The SAI will inform investors of this fact and direct interested investors to contact their broker to ascertain the availability and a description of the Service through their broker. The SAI will also caution interested beneficial owners that they should note that each broker may require investors to adhere to specific procedures and timetables to participate in the Service and such investors should ascertain from their broker the necessary details. iShares acquired pursuant to the Service will be held by the beneficial owners in the same manner, and subject to the same terms and conditions, as for original ownership of iShares.

With each distribution, the Trust will furnish to DTC participants for distribution to beneficial owners of iShares of each Fund a statement setting forth the amount being distributed, expressed as a dollar amount per share. Beneficial owners also will receive annual notification as to the tax status of the Funds' distribution. Promptly after the end of each fiscal year, the Trust will furnish to DTC participants, for distribution to each person who was

[33] *See* Amendment No. 2, *supra* note 4.

[33] *See* Amendment No. 2, *supra* note 4.

[34] *See* Amendment No. 2, *supra* note 4.

[35] *See* Amendment No. 2, *supra* note 4.

[36] *See* Amendment No. 2, *supra* note 5.

[37] In some circumstances and/or in certain countries, it may not be practicable, convenient, or permissible under the current law for a Fund to purchase and redeem shares on an ''in-kind'' basis exclusively. In addition, over time, the Trust may conclude that operating on an exclusively ''in-kind'' basis for one or more funds may present operational problems for such funds. Therefore, the Trust may permit, in its discretion, with respect to one or more funds under certain circumstances, an in-kind purchaser to substitute cash in lieu of depositing some or all of the requisite Deposit Securities. For the Trust to preserve maximum efficiency and flexibility, the Trust reserves the right to determine in the future that Shares of one or more Funds may be purchased in Creation Unit Aggregations on a cash-only basis. The decision to permit cash-only purchases of Creation Unit Aggregations, to the extent made at all in the future, would be made if the Trust and the Advisor believed such method would substantially minimize the Trust's transactional costs or would enhance the Trust's operational efficiencies. This would likely happen only in limited circumstances. For example, on days when a substantial rebalancing of a Fund's portfolio is required, the Advisor might prefer to receive cash rather than in-kind stocks so that it has the liquid resources at hand to make the necessary purchases. If a Fund were to receive in-kind stocks on such a day, it would have to sell many of such stocks and acquire new stocks to properly track its Underlying Index, thus incurring transaction costs that could have been avoided (or at least minimized) if the Fund had received payment for the Creation Unit Aggregations in cash.

a beneficial owner of iShares at the end of the fiscal year, an annual report of the Trust containing financial statements audited by independent accountants of nationally recognized standing and such other information as may be required by applicable laws, rules and regulations. Copies of annual and semi-annual shareholder reports will also be provided to the DTC participants for distribution to beneficial owners of iShares.

Criteria for Initial and Continued Listing

iShares are subject to the criteria for initial and continued listing of Index Fund Shares in Amex Rule 1002A, ''Initial and Continued Listing.'' The Amex anticipates that a minimum of two Creation Units (100,000 iShares) will be required to be outstanding at the start of trading. This minimum number of iShares required to be outstanding at the start of trading will be comparable to requirements that have been applied to previously listed series of Portfolio Depositary Receipts and Index Fund Shares. The Amex anticipates that the initial price of an iShare for each Fund would be approximately $50 to $100.

The Exchange believes that the proposed minimum number of iShares outstanding at the start of trading is sufficient to provide market liquidity and to further the Trust's objective of providing investment results that correspond generally to the price and yield performance of each Underlying Index.

Original and Annual Listing Fees

The Amex original listing fee applicable to the listing of the Funds is $5,000 for each Fund. In addition, the annual listing fee applicable to the Funds under Section 141 of the Amex *Company Guide* will be based upon the year-end aggregate number of outstanding iShares in all funds of the Trust listed on the Exchange.

Stop and Stop Limit Orders

Commentary .04(c) to Amex Rule 154, ''Orders Left with Specialist,'' provides that stop and stop limit orders to buy or sell a security, other than an option,[38] the price of which is derivately priced based upon another security or index or securities may, with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c). The Exchange has designated Index Fund Shares, including iShares, as eligible for this treatment.[39]

Amex Rule 190

Commentary .04 to Amex Rule 190, ''Specialist's Transactions with Public Customers,'' applies to Index Fund Shares listed on the Exchange, including iShares. Commentary .04 states that nothing in Amex Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or converted into the listed security, from the issuer an appropriate to facilitate the maintenance of a fair and orderly market.

Prospectus Delivery

The Trust has requested an exemptive order granting relief from the prospectus delivery requirements imposed by section 24(d) of the 1940 Act.[40] In an Information Circular to members, the Amex will inform members of the prospectus or product description delivery requirements applicable to iShares prior to the commencement of trading.

Trading Halts

In addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Amex Rule 918C(b) in exercising its discretion to halt or suspend trading in Index Fund Shares, including iShares. These factors would include, but are not limited to: (1) The extent to which trading is not occurring in stocks underlying the index; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[41] In addition, trading in iShares will be halted if the circuit breakers parameters under Amex Rule 117, ''Trading Halts Due to Extraordinary Market Volatility,'' have been reached.

Suitability

Prior to commencement of trading, the Exchange will issue an Information Circular informing members and member organizations of the characteristics of the Funds and of applicable Exchange rules, as well as of the requirements of Amex Rule 411, ''Duty to Know and Approve Customers.''

Purchases and Redemptions in Creation Unit Size

In the Information Circular referenced above, the Amex will inform members and member organizations that each Fund's prospectus and SAI describe procedures for purchases and redemptions of iShares in Creation Unit size aggregations, and that iShares are not individually redeemable but are redeemable only in Creation Unit size aggregations or multiples thereof.

Survelliance

The Exchange surveillance procedures applicable to trading in the proposed iShares are comparable to those applicable to other Index Fund Shares currently trading on the Exchange.

(2) Basis

The Amex believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, and, in general to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change and Amendment Nos. 1, 2, 3, and 4 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[38] Amex Rule 950(f) and Commentary .01 to Amex Rule 950(f) apply to options.

[39] Amex Rule 154, Commentary .04(c)(v) states that Commentary .04(c), regarding election of stop and stop limit orders by quotation, shall apply to such derivative securities as the Amex designates from time to time as eligible for such treatment.

[40] 15 U.S.C. 870a–24(d). *See* Amendment No. 3, *supra* note 5.

[41] *See* Amex Rule 918C.

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number SR–Amex–2001–34 and should be submitted by September 11, 2001.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Amex has requested that the Commission approve the proposal on an accelerated basis. The Amex notes that the proposed iShares are similar in structure and operation to Index Fund Shares approved previously by the Commission and that the component securities of the Underlying Indexes are among the stocks with the highest liquidity and market capitalization in their respective countries. The Amex believes that the proposal does not raise issues that the Commission has not considered in connection with previous proposed rule changes relating to Index Fund Shares.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of section 6(b)(5).[42] Specifically, the Commission finds that the proposal to list and trade the proposed iShares will provide investors with a convenient and less expensive way or participating in the foreign securities markets. The Commission believes that the Amex's proposal should advance the public interest by providing investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell single securities at negotiated prices throughout the business day that represent the performance of several portfolios of stocks.[43] Accordingly, the Commission finds that the Amex's proposal will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest, consistent with section 6(b)(5) of the Act.[44]

Amex Rules 1000A *et seq.* provide for the listing and trading of Index Fund Shares. The Commission has approved the listing and trading of various Index Fund Shares on the Amex, including the following: 23 series of iShares MSCI Index Funds (formerly MSCI World Equity Benchmark Shares (''WEBS'')); [45] series of the iShares Trust based on the S&P Europe 350 Index and the S&P/TSE 60 Index;[46] nine series of Select Sector SPDRs and one series of the Technology 100 Index Fund;[47] and shares of the streetTracks Dow Jones Global Titans Index Fund.[48]

Similar to these Index Shares, the Commission believes that the proposed iShares will provide investors with an alternative to trading a broad range of securities on an individual basis, and will give investors the ability to trade a product representing in interest in a portfolio of securities designed to reflect substantially the applicable Underlying Index. The estimated cost of individual iShares, approximately $50 to $100, should make them attractive to individual retail investors who wish to hold a security representing the performance of a portfolio of stocks. In addition, unlike the case with standard open-end investment companies specializing in such stocks, investors will be able to trade iShares continuously throughout the business day in secondary market transactions at negotiated prices.[49] Accordingly, the proposed iShares will allow investors to: (1) Respond quickly to market changes through intraday trading opportunities; (2) engage in hedging strategies similar to those used by institutional investors; and (3) reduce transaction costs for trading a portfolio of securities.

Although the value of iShares will be derived from and based on the value of the securities and cash held in the Fund, iShares are not leveraged instruments. Accordingly, the level of risk involved in the purchase or sale of iShares is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that the pricing mechanism for the iShares is based on a portfolio of securities. Nevertheless, the Commission believes that the unique nature of iShares raises certain product design, disclosure, trading and other issues that must be addressed.

A. Generally

The Commission believes that the proposed iShares are reasonably designed to provide investors with an investment vehicle that substantially reflects in value their Underlying Indexes and, in turn, the performance of: (1) The component securities of the S&P Global 1200 Index; [50] (2) the component securities comprising 10 S&P global market sector indexes; [51] (3) the component securities comprising the S&P TOPIX 150 Index, the S&P Asia Pacific 100 Index, and the S&P Latin America 40 Index; [52] and (4) the

[42] 15 U.S.C. 78f(b)(5). In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[43] The Commission notes that unlike open-end investment companies, where investors have the right to redeem their fund shares on a daily basis, investors in iShares can redeem in Creation Unit size aggregations only.

[44] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging or other economic functions, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[45] *See* 1996 Order (approving the listing and trading of Index Fund Shares under Amex Rules 1000A *et seq.* and 17 series of WEBS based on MSCI foreign indexes), *supra* note 9; and Securities Exchange Act Release No. 42748 (May 2, 2000), 65 FR 30155 (May 10, 2000) (order approving File No. SR–Amex–98–49) (approving the listing and trading of six series of WEBS based on MSCI Indexes).

[46] *See* Securities Exchange Act Release No. 42786 (May 15, 2000), 65 FR 33586 (May 24, 2000) (order approving File No. SR–Amex–99–49).

[47] *See* Securities Exchange Act Release No. 40749 (December 4, 1998), 63 FR 68483 (December 11, 1998) (order approving File No. SR–Amex–98–29).

[48] *See* Securities Exchange Act Release No. 43338 (September 25, 2000) 65 FR 59235 (October 4, 2000) (order approving File No. SR–Amex–00–53).

[49] Because of the potential arbitrage opportunities, the Commission believes that iShares will not trade at a material discount or premium in relation to their NAV. The mere potential for arbitrage should keep the market price of iShares comparable to their NAV; therefore, arbitrage activity likely will not be significant.

[50] The S&P Global 1200 Index is comprised of selected equities trading on the exchanges of 29 subject countries. In a manner similar to the S&P 500 Index, the S&P Global 1200 Index tracks the leading companies in the leading industries for their home countries. The S&P Global 1200 Index is comprised of six distinct regional component indexes: the S&P 500 Index (U.S.); the S&P/TSE 60 Index (Canada); the S&P Latin America 40 Index; the S&P TOPIX 150 Index (Japan); the S&P Asia Pacific 100 Index; and the S&P Europe 350 Index. *See* Exhibit K.

[51] The sector indexes are: the S&P Global Consumer Discretionary Index; the S&P Global Consumer Staples Index; the S&P Global Energy Index; the S&P Global Financials Index; the S&P Global Health Care Index; the S&P Global Industrials Index; the S&P Global Information Technology Index; the S&P Global Materials Index; the S&P Global Telecommunication Services Index; and the S&P Global Utilities Index. Each component security of the sector indexes is a component security of the S&P Global 1200 Index.

[52] The S&P/TOPIX 150 Index, which includes 150 securities selected from each major sector of the Tokyo market, represents approximately 70% of the market value of the Japanese equity market. The S&P Asia Pacific 100 Index is comprised of stocks from Australia, Hong Kong, Malaysia, New Zealand, Singapore, South Korea, and Taiwan. The S&P Latin America 40 Index is comprised of stocks from Argentina, Brazil, Chile, and Mexico. *See* Exhibits L, M, and N.

component securities comprising the MSCI EAFE Index.[53]

The Commission notes that S&P and MSCI impose specified criteria in the selection of the component securities of the Underlying Indexes. The component securities included in the Underlying Indexes maintained by S&P are components of the S&P Global 1200 Index, which, in a manner similar to the S&P 500 Index, is designed to track the leading companies in the leading industries in 29 countries.[54] The component securities of the Underlying Indexes maintained by S&P must meet criteria for sector representation, liquidity, and size.[55] S&P analyzes the financial and operating condition of potential components of the Underlying Indexes and seeks to minimize turnover among the components of the Underlying Indexes.[56] With regard to the MSCI EAFE Index, an index comprised of component securities from 21 countries outside North America, MSCI seeks to have 85% of the free-float market capitalization of a country's stock market represented in the EAFE Index.[57] MSCI seeks to select stocks with good liquidity and float, and seeks to avoid cross-ownership.[58] The Commission believes that S&P's and MSCI's selection criteria should serve to ensure that the Component Securities of the Underlying Indexes are well capitalized and actively traded.

The Commission notes that at least 90% of each Fund's total assets will be invested in the Component Securities of its Underlying Index and that each Fund will hold most of the Component Securities of its Underlying Index. As noted above, each Fund will concentrate its holdings in investments in issues of one or more particular industries to the extent that its Underlying Index concentrates in the stocks of a particular industry or industries.[59] In addition, each Fund will maintain regulated investment company compliance, which requires, among other things, that, at the close of each quarter of the Fund's taxable year, not more than 25% of its total assets may be invested in the securities of any one issuer.[60] While the Commission believes that these requirements should help to reduce concerns that the Funds could become a surrogate for trading in a single or a few unregistered stocks, in the event that a Fund were to become such a surrogate, the Commission would expect the Amex to take action immediately to delist the securities to ensure compliance with the Act.

As noted above, each Fund will use a representative portfolio sampling strategy to attempt to track its Underlying Index.[61] Although a representative sampling strategy entails some risk of tracking error, the Advisor will seek to minimize tracking error.[62] It is expected that each Fund will have a tracking error relative to the performance of its Underlying Index of no more than 5%. If the tracking error for a Fund exceeds 5%, the Advisor will notify the Board and discuss appropriate actions with the Board.[63] The Commission notes that the web site for the Funds will provide detailed information on the performance of each Fund, the performance of the Underyling Indexes and the tracking error for each Fund.[64] In addition, the Funds' annual and semiannual reports will include disclosure regarding the Funds' total return and each Underlying Index's total return for one-, five-, and 10-year periods, and graphs comparing hypothetical $10,000 investments in the Funds and their Underlying Indexes.[65] While the Commission believes that the proposed requirements for the Funds, and the expected tracking error or less than 5%, should be adequate to characterize the proposed Funds as bona fide index funds, the Commission would be concerned if a Fund's portfolio failed to substantially reflect its Underlying Index.[66]

B. Disclosure

The Commission believes that the proposal should ensure that investors have information that will allow them to be adequately appraised of the terms, characteristics, and risks of trading iShares. Investors purchasing the proposed Shares will be required to receive either a prospectus or, as discussed below, a product description of the iShares.[67] If the proposed iShares are not granted relief from the prospectus delivery requirements of the 1940 Act, then investors purchasing iShares will be required to receive a prospectus prior to or concurrently with the confirmation of a transaction therein. Because iShares will be in continuous distribution, the prospectus delivery requirements of the Securities Act of 1933 will apply both to initial investors and to all investors purchasing such securities in secondary market transactions on the Amex.

Alternatively, if the proposed iShares are granted relief from the prospectus delivery requirements of the 1940 Act, they will be subject to Commentary .03 to Amex Rule 1000A, which provides for delivery of a product description for series of Index Fund Shares that have been granted relief from the prospectus delivery requirements of the 1940 Act. The prospectus or product description will address the special terms and characteristics of the Funds, including a statement regarding their redeemability and method of creation, and a statement regarding the likelihood of whether such products will trade below, at, or above NAV, based on the role of discounts or premiums.[68] Under Commentary .03, the delivery requirement will extend to a member or member organization carrying an omnibus account for a non-member broker-dealer, who must notify the non-member to make the product description available to its customers on the same terms as are directly applicable to members and member organizations. In addition, Commentary .03 provides that a member or member organization must deliver a prospectus to a customer upon request.

The Commission notes that prior to the commencement of trading in the proposed iShares, the Amex will issue a circular to its members explaining the unique characteristics and risks of this particular type of security. The circular will address members' responsibility to deliver a prospectus or product description to all investors and will highlight the characteristics of purchases in iShares, including that they are redeemable only in Creation Unit size aggregations or multiples thereof. The circular will advise members that the Fund prospectus and

[53] The MSCI EAFE Index is designed to represent developed stock markets outside of North America. The MSCI EAFE Index includes equity securities from Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, and the United Kingdom. *See* Exhibit P.

[54] *See* Exhibit K.

[55] *See* Exhibits A through N.

[56] *See* Exhibits A through N.

[57] *See* Exhibit P.

[58] *See* Exhibit P.

[59] *See* Amendment No. 2 *supra* note 4.

[60] *See* Amendment No. 2, *supra* note and note 17, *supra*.

[61] *See* Amendment Nos. 2 and 3, *supra* notes 4 and 5.

[62] *See* Amendment No. 3, *supra* note 5.

[63] *See* Amendment No. 3, *supra* note 5.

[64] *See* Amendment No. 3, *supra* note 5.

[65] *See* Amendment No. 3, *supra* notes 3 and 5.

[66] Among other issues that may arise under the federal securities laws, such an occurrence could raise the issue of whether trading of the proposed iShares would remain consistent with Amex listing standards for Index Fund Shares, as well as the surrogate trading issue discussed above. *See* text accompanying notes 58 and 59, *supra*.

[67] As noted above, the Trust has requested an exemptive order granting relief from the prospectus delivery requirements imposed by section 24(d) of the 1940 Act.

[68] *See* August 6 Conversation, *supra* note 30.

SAI describe procedures for the purchase and redemption of iShares in Creation Unit size. In addition, the circular will address Amex members' responsibilities under Amex Rule 411 regarding transactions in Fund shares. Amex Rule 411 generally requires that members use due diligence to learn the essential facts relative to every customer, every order or account accepted.[69]

C. Listing and Trading of iShares

The Commission finds that adequate rules and procedures exist to govern the listing and trading of iShares. iShares will be deemed equity securities subject to Amex rules governing the trading of equity securities,[70] including, among others, rules governing trading halts,[71] responsibilities of the specialist, account opening and customer requirements, and the election of stop and stop limit orders.

In addition, the Funds will be subject to Amex listing and delisting/suspension rules and procedures governing the trading of Index Fund Shares on the Amex. As the Commission has noted previously,[72] the listing and delisting criteria for Index Fund Shares should help to ensure that a minimum level of liquidity will exist in each series of Index Fund Shares to allow for the maintenance of fair and orderly marketers. The delisting criteria also will allow the Amex to consider the suspension of trading and the delisting of a series of iShares if an event were to occur that made further dealings in such securities inadvisable. This will give the Amex flexibility to delist iShares if circumstances warrant such action. For example, as noted above, in the event that iShares became a surrogate for trading a single or few unregistered securities, such an event could raise issues that would require the delisting of iShares to ensure compliance with the Act. Accordingly, the Commission believes that the rules governing the trading of iShares provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.

As noted above, the Amex expects to require that a minimum of two Creation Units (100,000 iShares) be outstanding at the start of trading. The Commission believes that this minimum number is sufficient to help to ensure that a minimum level of liquidity will exist at the start of trading.

The Commission believes that the Amex's proposal to trade iShares with a minimum price variation of $.01[73] is consistent with the Act. The Commission believes that such trading may enhance market liquidity and should promote more accurate pricing, tighter quotations, and reduced price fluctuations. The Commission also believes that such trading should allow customers to receive the best possible execution of their transactions in the Funds. Additionally, the Commission believes that the proposed original listing fee of $5,000 is reasonable, as is the proposed method for calculating the annual fee.

D. Specialists

The Commission finds that it is consistent with the Act to allow a specialist registered in a security issued by an Investment Company to purchase or redeem the listed security from the issuers as appropriate to facilitate the maintenance of a fair and orderly market in that security. The Commission believes that such market activities should enhance liquidity in such securities and facilitate a specialist's market making responsibilities. In addition, because the specialist will only be able to purchase and redeem iShares on the same terms and conditions as any other investor in accordance with the terms of the Fund prospectus and SAI, the Commission believes that concerns regarding potential abuse are minimized. The Amex's existing surveillance procedures also should ensure that such purchases are only for the purpose of maintaining fair and orderly markets, and not for any improper or speculative purposes. Finally, the Commission notes that its approval of this aspect of the Amex's proposal does not address any other requirements or obligations under the federal securities laws that may be applicable.

E. Stop and Stop Limit Orders

The Commission believes that the Amex's proposal to designate the proposed iShares as eligible for election by quotation with the prior approval of a Floor Official is consistent with the Act. Amex Rule 154, Commentary .04(c) generally provides that stop and stop limit orders to buy and sell a security or index of securities may, with prior approval of a Floor Official, be elected by quotation, as set forth in Amex Rule 154, Commentary .04. Amex Rule 154, Commentary .04(c)(v) states that election by quotation only is available for such derivative securities as are designated by the Amex as eligible for such treatment. The Amex has so designated Index Fund Shares, including the proposed iShares.

The Commission believes that allowing stop and stop limit orders in iShares to be elected by quotation, a rule typically used in the options context, is appropriate because, as a result of their derivative nature, iShares are in effect equity securities that have a pricing and trading relationship to the underlying securities similar to the relationship between options and their underlying securities.[74]

F. Amendment to Amex Rule 1000A, Commentary .04

The Commission believes that the proposal to amend Amex Rule 1000A, commentary 0.4[75] to provide that transactions in iShares may be effected until 4 p.m. or 4:15 p.m., as specified by the Amex, will provide the Amex with flexibility in the hours of trading for iShares. The Commission notes that the generic listing standards in Amex Rule 1000A, Commentary .02 provide that trading for Index Fund Shares will occur between 9:30 a.m. and either 4 p.m. or 4:15 p.m., as specified by the Amex.[76]

G. Surveillance

The Amex represents that the surveillance procedures applicable to trading in the proposed iShares are comparable to those applicable to other Index Fund Shares currently trading on the Amex. The Commission believes that the surveillance procedures developed by the Amex for Index Fund Shares are adequate to address the concerns associated with the listing and trading of the iShares, including any concerns associated with purchasing and redeeming Creation Units.

With regard to the MSCI EAFE Index Fund, the Commission notes that when a broker-dealer, such as Morgan Stanley or a broker-dealer's affiliate, such as MSCI, is involved in the development

[69] *See* Amex Rule 411.

[70] *See* August 6 Conversation, *supra* note 30.

[71] As noted above, in addition to other factors that may be relevant, the Amex may consider factors such as those set forth in Amex Rule 918C(b) in exercising its discretion to halt or suspend trading in iShares. These factors would include, but are not limited to: (1) The extent to which trading is not occurring in stocks underlying the index; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in iShares will be halted if the circuit breaker parameters under Amex Rule 117 have been reached.

[72] *See* 1996 Order, *supra* note 9.

[73] *See* Amendment No. 2, *supra* note 4.

[74] *See generally* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 199) (order approving File No. SR–Amex–90–31) (relating to stop and stop limit orders in certain equity securities).

[75] *See* Amendment No. 3, *supra* note 5.

[76] *See* Amex Rule 1000A, Commentary .02(f).

and maintenance of a stock index upon which a product such as iShares is based, the broker-dealer and its affiliate should have procedures designed specifically to address the improper sharing of information. The Commission notes that MSCI has implemented procedures to prevent the misuse of material non-public information regarding changes to the component stocks of the EAFE Index Fund that are the same as the procedures MSCI applies to other iShares MSCI Index Funds.[77] The Commission believes,[78] as it has concluded previously, that the information barrier procedures put in place by MSCI address the unauthorized transfer and misuse of material, non-public information.

H. Dissemination of Information Regarding the Funds

The Commission believes that the Value that the Amex proposes to have disseminated for the Funds will provide investors with timely and useful information concerning the value of the individual Funds. The Exchange presents that the Value information will be disseminated through the facilities of the CTA every 15 seconds from 9:30 a.m. to 4 p.m. or 4.15 p.m. Eastern time,[79] depending on the time the Amex specifies for the trading of iShares, and should closely approximate the value per Fund share of the portfolio of the Deposit Securities and Balancing Amount for each Fund, except under unusual circumstances (*e.g.,* in the case of extensive rebalancing of multiple securities in a Fund at the same time by the Advisor).[80] The Commission expects that the Amex will monitor the disseminated Value and, if the Amex were to determine that the Value does not closely track the applicable iShares series, it would arrange to disseminate an adequate alternative value.

The NAV per share of each Fund will be determined as of the close of the regular trading session on the NYSE on each that the NYSE is open. The Amex will disseminate the NAV for each Fund on a daily basis [81] and the final dividend amounts to be paid for each Fund on amextrader.com.[82] For each Fund, the Amex will disseminate over Network B at the opening the number of iShares outstanding.[83]

The Trust intends to maintain a web site that will include, for each Fund, its prospectus, SAI, Underlying Index, and additional quantitative information that is updated on a daily basis, including daily trading volume, closing price, and closing NAV. The web site for the funds also will provide information regarding the tracking error for each Fund.[84] In addition, the Funds' annual and semi-annual report will include disclosure of the Funds' total return and each Underlying Index's total return for one-, five-, and 10-year periods, and graphs comparing value of hypothetical $10,000 investments in the Fund and its Underlying Index.[85]

Organizations authorized by each respective Underlying Index provider will disseminate intra-day values of the Underlying Indexes at regular intervals, currently expected to be every 15 seconds, throughout the trading day. In addition, these organizations will disseminate values for each Underlying Index once each trading day based on the closing prices in the relevant exchange market.

As described more fully above, the Advisor will make available through the Distributor on each business day prior to the opening of trading on the Exchange the list of the names and the required number of shares of each Deposit Security included in the current Portfolio Deposit (based on information at the end of the previous business day) for each Fund to effect purchases of Creation Unit Aggregations of the Fund.

In addition, the Advisor will provide the NSCC on a daily basis with the names and required number of shares of the Deposit Securities in a Creation Unit Aggregation and the Balancing Amount, which the NSCC will make available to NSCC members through an electronic file that NSCC members can download.[86]

I. Scope of the Commission's Order

The Commission is approving the 15 series of iShares described herein. Other similarly structured products, or additional iShares Funds based on indexes that include securities not listed on a national securities exchange or The Nasdaq Stock Market, would require review by the Commission pursuant to section 19(b) of the Act prior to being traded on the Amex.

J. Accelerated Approval of the Proposal and Amendment Nos. 1, 2, 3, and 4

The Commission finds good cause for approving the proposed rule change and Amendment Nos. 1, 2, 3, and 4 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** As discussed more fully above, the Commission has approved the listing and trading of various Index Fund Shares on the Amex. Several of the Amex's previous proposals to list and trade Index Fund Shares were published for comment and the Commission received no comments regarding the proposals. Accordingly, the Commission believes that it is reasonable to make the proposed iShares available to investors as soon as possible. Amendment No. 1 clarifies the Amex's proposal by deleting the S&P Global 700 Index Fund from the new series of iShares that the Amex proposes to list and trade. Amendment No.2 strengthens the Amex's proposal by, among other things, representing the MSCI has implemented procedures to prevent the misuse of material non-public information regarding the MSCI EAFE Index, describing the Value for each Fund that the Amex will disseminate during regular Amex trading Hours, and describing the requirements for a Fund to qualify for tax treatment as a regulated investment company. Amendment No. 3 strengthens the Amex's proposal by, among other things, discussing the tracking error for the Funds, defining an ''Authorized Participant,'' and revising Amex Rule 1000A, Commentary .04 to indicate the transactions in iShares may be effected until 4 or 4:15 (New York) time each business day, as specified by the Amex. Amendment No. 4 clarifies the proposal by indicating that the Advisor will provide the NSCC with the names and required number of shares of the Deposit Securities in a Creation Unit Aggregation and the Balancing Amount, and by identifying the final dividend amount as the amount to be paid by a Fund for the appropriate period. Accordingly, the Commission believes that there is good cause, consistent with sections 6(b)(5) and 19(b)(2) of the Act,[87] to approve the proposal and Amendment Nos. 1, 2, 3, and 4 to the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–Amex–2001–

[77] *See* Amendment No. 2, *supra* note 4.

[78] *See* Securities Exchange Act Release No. 42748 (May 2, 2000), 65 FR 30155 (May 10, 2000) (Order approving File No. SR–Amex–98–49).

[79] *See* August 6 Conversation, *supra* note 30.

[80] *See* Amendment No. 2, *supra* note 4.

[81] *See* August Conversation, *supra* note 29.

[82] *See* Amendment No. 3, *supra* note 5. As noted above, the final dividend amount, which the Funds will also disseminate to Bloomberg and other sources, is the amount of dividends to be paid by a Fund for the appropriate period (usually annually). *See* Amendment No. 4, *supra* note 6.

[83] *See* Amendment No. 3, *supra* note 5.

[84] *See* Amendment No. 3, *supra* note 5.

[85] *See* Amendment No. 3, *supra* note 5.

[86] *See* Amendment No. 4, *supra* note 6.

[87] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

34), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[88]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21014 Filed 8–20–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44693; File No. SR–CBOE–2001–29]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to Changes to the Exchange's Delisting Criteria

August 13, 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 29, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On August 3, 2001, the CBOE submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposed to change CBOE Rule 5.4, which governs the withdrawal of approval for securities underlying options traded on the Exchange (''Delisting Criteria Rule'' or ''CBOE Rule 5.4'').

The text of the proposed rule change, as amended, appears below. New text is in italics; deletions are in brackets.

* * * * *

Chicago Board Options Exchange, Inc. Rules

* * * * *

Chapter V—Securities Dealt In

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Withdrawal of Approval of Underlying Securities

Rule 5.4

Whenever the Exchange determines that an underlying security previously approved for Exchange option transactions does not meet the then current requirements for continuance of such approval or for any other reason no longer approved, the Exchange will not open for trading any additional series of options of the class covering that underlying security and therefore may prohibit any opening purchase transactions in series of options of that class previously opened, to the extent it deems such action necessary or appropriate; provided, however, that where exceptional circumstances have caused an underlying security not to comply with the Exchange's current approval maintenance requirements, regarding number of publicly held shares or publicly held principal amount, number of shareholders, trading volume or market price the Exchange, in the interest of maintaining a fair and orderly market or for the protection of investors, may determine to continue to open additional series of option contracts of the class covering the underlying security. When all option contracts in respect to any underlying security that is no longer approved have expired, the Exchange may make application to the Securities and Exchange Commission to strike from trading and listing all such option contracts.

. . . Interpretations and Policies

.01 The Board of Directors has established guidelines to be considered by the Exchange in determining whether an underlying security previously approved for Exchange option transactions no longer meets its requirements for the continuance of such approval. Absent exceptional circumstances, with respect to Paragraphs (a), (b), or (c) listed below, an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur:

(a) There are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Securities Exchange Act of 1934.

(b) There are fewer than 1,600 holders of the underlying security.

(c) The trading volume (in all markets in which the underlying security is traded) was less than 1,800,000 shares in the preceding twelve months.

(d) The market price per share of the underlying security closed below [$5] *$3 on the previous trading day* [on a majority of the business days during the preceding six calendar months] as measured by the highest closing price reported in any market in which the underlying security traded.

(e) The issuer has failed to make timely reports as required by applicable requirements of the Securities Exchange Act of 1934, and such failure has not been corrected within 30 days after the date the report was due to be filed.

(f) The issue, in the case of an underlying security that is principally traded on a national securities exchange, is delisted from trading on that exchange and neither meets NMS criteria nor is traded through the facilities of a national securities association, or the issue, in the case of an underlying security that is principally traded through the facilities of a national securities association, is no longer designated as an NMS security.

(g) If an underlying security is approved for options listing and trading under the provisions of Interpretation and Policy .05 of Rule 5.3, the trading volume and price history of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including ''when-issued'' trading, may be taken into account in determining whether the trading volume and market price requirements of paragraphs (c) and (d) of this Interpretation and Policy .01[, as well as the trading volume and market price requirements of Interpretation and Policy .04 of this Rule 5.4,] are satisfied, provided, however, that in the case of a Restructure Security approved for options listing and trading under paragraph (d) of Interpretation and Policy .05 of Rule 5.3, such trading volume requirements must be satisfied based on the trading volume history of the Restructure Security.

.02 In connection with Paragraph (d) of Interpretation and Policy .01 above, the Exchange shall not open for trading any additional series of option contracts of the class covering an underlying security at any time when the market price per share of such underlying security is less than [$5]*3*[as measured by the highest closing price reported in any market in which the underlying security trades. Further, no series of options contracts will be opened with a strike price of less than $5.00 per share]. *Subject to Paragraph (d) of Interpretation and Policy .01 above, the Exchange may open for trading additional series of option contracts of a class covering an underlying security when the market price per share of such underlying security is at or above $3 at the time such additional series are authorized for trading. For purposes of this Interpretation .02, the market price of such underlying security is measured by (i) for intra-day series additions, the last reported trade in any market at the time the Exchange determines to add these additional series intra-day, and (ii) for next-day and expiration series additions, the closing price reported in any market in which the security is traded on the last trading day before the series are added.*

.03 No change.

[.04 Notwithstanding paragraph (d) to Interpretation .01 and Interpretation .02, the Exchange may continue to open for trading additional series of options contracts of a class covering an underlying security, provided.

(a) The aggregate market value of the underlying security equals or exceeds $50 million;

(b) Customer open interest (reflected on a two-sided basis) equals or exceeds 4,000 contracts for all expiration months;

[88] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Patrick Sexton, Assistant General Counsel, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated August 1, 2001 (''Amendment No. 1''). In Amendment No. 1, the CBOE made technical corrections to the rule text, clarified when the CBOE can open additional series of options contracts covering an underlying security, and described how the CBOE intends to measure the market price of the underlying security in the context of the instant proposed rule change.

(c) Trading volume in the underlying security (in all markets in which the underlying security is trading) has been at least 2,400,000 shares in the preceding twelve months; and

(d) The Market price per share of the underlying security closed at $3 or above on a majority of the business days during the preceding six calendar months, as measured by the highest closing price reported in any market in which the underlying security traded, and further provided the market price per share of the underlying security is at least $3 at the time such additional series are authorized for trading. During the next consecutive six calendar month period, to satisfy this Interpretation .04, the price of the underlying security as referenced in this paragraph .04(d) shall be $4.]

.04 [Reserved]

.05–.10 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments if received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in section 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, Proposed Rule Change

1. Purpose

The Exchange's Delisting Criteria Rule currently provides that the Exchange may not list additional series on an option class if the underlying security has not closed above $5 for the majority of business days during the preceding six calendar months as measured by the highest closing price reported in any market in which the underlying security traded (''$5 guideline'')[4] The Delisting Criteria Rule provides limited exceptions to the $5 guideline such that series may be added even when the underlying security did not satisfy the $5 guideline if the underlying security met either a separate $3 guideline and a separate $4 guideline.

Change in Guideline Price. The Exchange is proposing to amend its Delisting Criteria Rule in a few respects. First, the Exchange is amending the Delisting Criteria Rule by changing the guideline price (set forth in Interpretation .01 to CBOE Rule 5.4) used to determine whether an underlying security previously approved for Exchange options transactions no longer meets the requirements for the continuance of approval. The Exchange is changing the guideline price used to make this determination from $5 to $3.[5] In addition, the Exchange is eliminating the requirement for the Exchange to determine the guideline price by looking at whether the security closed above that price for a majority of the business days during the preceding six calendar months. Instead, the Exchange proposes to determine whether the underlying security closed above that price (*i.e.,* now proposed to be $3) on the previous trading day. The Exchange is not otherwise proposing to amend the other criteria used to determine whether a class of options meets the requirements for the continuance of approval (such as, the number of shares that must be held by non-insiders, number of holders, and trading volume).

Intra-Day Additions of Series. The Exchange is amending Interpretation .02 to CBOE Rule 5.4 by reducing from $5 to $3 the price above which the underlying security must be traded before the Exchange may add additional series of options intra-day. This means if the Exchange is adding a series intra-day, the underlying security must have closed above $3 the previous day (in order to meet the requirement of Interpretation .01(d) to CBOE Rule 5.4) and must be at $3 or above at the time the new series is added (in order to meet the requirement of Interpretation .02 to CBOE Rule 5.4).

Elimination of Interpretation .04 to CBOE Rule 5.4. The Exchange also is proposing to eliminate Interpretation .04 of the Delisting Criteria Rule. Interpretation .04 to CBOE Rule 5.4 sets forth guidelines for adding classes notwithstanding that the price of the underlying security does not meet the $5 guideline currently set forth in Interpretation .01 to CBOE Rule 5.4. Notwithstanding the $5 guideline, the interpretation currently provides that that the Exchange may add series if: (I) the closing price of the underlying security was over $3 for a majority of the days during the six calendar month period preceding the addition, and (2) the closing price of the underlying security must be $4 for a majority of the days during a subsequent six calendar month period. Because the Exchange is proposing to change the initial guideline from $5 to $3, Interpretation .04 to CBOE Rule 5.4 is no longer needed.

Reasons for Change to Delisting Criteria. When many of the delisting criteria were first implemented, the listed options market was in its infancy. Now more than twenty-seven years after the CBOE first started trading listed options, the listed options market is a mature market with sophisticated investors. The Exchange does not believe that the $5 guideline is necessary to accomplish its presumed intended purpose; *i.e.,* to prevent the proliferation of option classes on underlying securities that lack liquidity needed to maintain fair and orderly markets. The Exchange believes that it should allow the desires of the Exchange's customers and the workings of the marketplace to determine the securities on which the Exchange will list options.[6] The Exchange's own business considerations should ensure that the Exchange does not list inappropriate classes of options. In determining to list any number of new option series under the proposed less restrictive standard, the Exchange must ensure that its own systems and those of the Options Price Reporting Authority can handle any increased capacity requirements.

Problems in Interpreting or Enforcing Current Standards. The Exchange has noted that the options exchanges, which have all adopted very similar delisting criteria, have frequently listed option series that are not permitted to be listed pursuant to these criteria. The Exchange believes this is at least partially due to the fact that the current listing criteria are subject to inconsistent interpretations by the different exchanges. These impermissible listings may have a number of negative consequences. Specifically, the Exchange believes that the violating exchange gains a competitive advantage over the competing exchanges who have not taken the same interpretation of the rules. Although the non-listing exchange may enlist the assistance of staff of the Commission to ensure that the listing exchange does not gain an unfair advantage, the Exchange has learned that this process cannot be completed quickly enough to prevent harm to the Exchange or its members. Typically, the Commission staff requires the violating exchange to begin the process of delisting the class by

[4] Other factors also must be met for the Exchange to add additional series in a class as described in Interpretation .01 to CBOE Rule 5.4.

[5] If the underlying security does not meet the guideline price then the Exchange will not open additional series of options of that class and may take other actions such as prohibiting opening purchase transactions in series of options of that class previously opened.

[6] Of course, the rule still provides that the security underlying the option must be listed on a national securities exchange or NASDAQ.

allowing closing only transactions. Nonetheless, the listing exchange still will typically list the improper series for a substantial period of time (often until expiration) because there likely will be open interest in that series. The listing exchange(s), in these circumstances, will be the only exchange(s) that is able to close out the open positions because it is the only exchange(s) where the series is listed. The Exchange has noted circumstances in the recent past where its trading crowds have lost member firm order flow, not only for the series which were improperly added by the listing exchange, but also for the entire class. The refusal of an exchange to violate its own rules to add improperly a series can have lasting effects as an order flow firm may reward those exchanges that were willing to list the series that its customers were interested in trading.

2. Statutory Basis

The Exchange believes that the current proposal will allow the Exchange to provide investors with those options that are most useful and demanded by them without sacrificing any investor protection. As such, the Exchange believes the proposed rule change, as amended, is consistent with section 6(b) Act,[7] in general, and furthers the objectives of section 6(b)(5),[8] in particular, because it will promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change, as amended, 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

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2001–29 and should be submitted by September 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20975 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44705; File No. SR–CHX–2001–14]

Self Regulatory Organizations; The Chicago Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change to Eliminate the ''E-Session'' After-Hours Trading Session

August 15, 2001.

On July 2, 2001, The Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to delete CHX Article XXA, which governed an after-hours trading session (the ''E-Session'') conducted by the Exchange, and to eliminate other rule references to the E-Session.

The proposed rule change was published for comment in the **Federal Register** on July 16, 2001.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of section 6 of the Act[5] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act[6] because it will allow the CHX to terminate its after-hours trading session, which has not sustained the increases in order flow that the Exchange anticipated when it implemented the E-Session in early 2000.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–CHX–2001–14) be, and it hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21017 Filed 8–20–01; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44534 (July 10, 2001), 66 FR 37081.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44696; File No. SR–DTC–2001–07]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to the Movement of All DRS Issues Into Profile and the Establishment of the ''S'' Position as the Default Position

August 14, 2001.

On May 25, 2001, The Depository Trust Company (''DTC'') filed with the

Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–2001–07) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on June 29, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

In 1996, the New York Stock Exchange, Inc. modified its listing criteria to permit listed companies to issue securities in book entry form provided that the issue is included in the Direct Registration System (''DRS'').[3] Since then, there has been a steady growth in securities issued through DRS, primarily through corporate action distributions and initial public offerings.

In January 1999, the DRS Committee[4] approved system specifications for the Profile Modification System (''Profile'') and authorized DTC to proceed with the development of Profile.[5] DTC completed production of Profile on June 15, 1999, and it has been available for use since then. Profile allows a DTC participant (*i.e.,* a broker-dealer) to submit electronically to a transfer agent who is a ''DRS limited participant'' at DTC an investor's instruction that the investor's share positions be moved from the investor's DRS account with the limited participant to the investor's broker-dealer's participant account at DTC (''Electronic Participant Instruction'').[6] Similarly, a DRS limited participant using Profile may submit an investor's instruction for the movement of the investor's share positions from the investor's broker-dealer's participant account at DTC to the investor's DRS account with the DRS limited participant (''Electronic Limited Participant Instruction'').

At the time that the Commission approved DTC's proposed rule change establishing Profile, it was contemplated that an electronic medallion program would be developed by a party that currently administers a medallion program in connection with transfers of physical certificates and that such an electronic medallion program would become part of Profile.[7] At a meeting held on April 20, 2000, that included representatives of the Securities Transfer Association, the Corporate Transfer Association, the American Society of Corporate Secretaries, the Securities Industry Association, DTC, and the New York Stock Exchange, it was decided that because of its role in DRS, DTC would be a logical party to administer a program that would provide many of the benefits of an electronic medallion program.

As a result, DTC proposed and the Commission approved the DTC Profile Surety Program (''PSP'').[8] PSP is open only to DTC participants or DTC DRS limited participants. DTC is the program administrator of PSP. Under PSP, in order to be able to send an Electronic Instruction, an entity is required to have a surety bond issued by either the surety bond company picked by DTC as the administrator of PSP or another surety company. Any surety bond issued by another surety bond company must have the same terms and conditions established by DTC for the PSP. For example, each surety bond must have a limit of $2 million per occurrence with an aggregate limit of $6 million. The PSP went into operation on May 3, 2001, and currently 35 broker-dealers and transfer agents have joined the program.

With PSP in place, the DRS Committee at a meeting on April 12, 2001, agreed to take steps to migrate into Profile all securities issues currently in DRS but not in Profile. As a result, DTC filed this rule filing which requires that all security issues which are presently DRS eligible but which are not eligible for processing in Profile must be made eligible for processing in Profile by November 1, 2001.[9] Also beginning on November 1, 2001, a broker-dealer's request for a withdrawal by transfer (W.T.)[10] for a DRS eligible issue which does not specifically request a certificate will automatically default to a request for a DRS book-entry position (an ''S'' position) on the books of the issuer or its transfer agent.

II. Discussion

Section 17A(b)(3)(F)[11] of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[12] For the reasons set forth below, the Commission believes that DTC's proposed rule change is consistent with DTC's obligations under Section 17A(b)(3)(F) of the Act.

As the Commission has stated in previous orders concerning DRS, the primary purpose of Profile is to provide a more prompt and accurate mechanism for the transfer of an investor's book-entry position between the investor's broker-dealer and the transfer agent for the issue than the multistep, paper-based processing that is used when Profile is not used. The migration of all DRS issues into Profile processing, with the attendant PSP, should ensure that all investors holding securities positions in DRS will be able to transfer their shares back and forth between their broker-dealers and the transfer agents for the issuers in a prompt and accurate manner.

In addition, the establishment of ''S'' position as DTC's W.T. default should increase the number of investors who are able to more efficiently move their securities through DRS by reducing the number of instances when an investor receives a certificate not because the investor requested a certificate but because the investor's broker-dealer fails to elect either a certificate or a DRS position on its W.T. request.

As set forth above, the Commission finds that DTC's rule change (1) mandating that all DRS issues must be able to be processed through Profile and (2) establishing the ''S'' position as DTC's W.T. default position is consistent with Section 17A(b)(3)(F) of the Act because it should facilitate the more efficient transfer of investors' security positions and thereby should promote the prompt and accurate

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Release No. 44471, (June 22, 2001), 66 FR 34728.

[3] Securities Exchange Act Release No. 37937 (November 8, 1996), 61 FR 58728 [File No. NYSE 96–29]. Similarly, the National Association of Securities Dealers modified its rule to require that if an issuer establishes a direct registration program, it must participate in an electronic link with a securities depository in order to facilitate the electronic transfer of the issue. Securities Exchange Act Release No. 39369, (November 26, 1997), 62 FR 64034 [File No. SR–NASD–97–51].

[4] The DRS Committee is comprised of representatives from DTC and the brokerage and transfer agent communities and is responsible for designing DRS.

[5] For a description of Profile, refer to Securities Exchange Act Release No. 41862 (September 10, 1999), 64 FR 51162 (order approving implementation of Profile).

[6] A broker-dealer can also use Profile to electronically add or update broker-dealer information to a shareholder's record at the transfer agent.

[7] Securities Exchange Act Release No. 42704 (April 19, 2000), 65 FR 24242 [File No. SR–DTC–00–04].

[8] Securities Exchange Act Release No. 43586 (November 17, 2000), 65 FR 70745 [File No. SR–DTC–00–09] (order approving PSP).

[9] If a securities issuer whose issue is currently eligible in DRS does not agree to allow processing of its securities through Profile by November 1, 2001, that issuer will be prohibited from establishing any new DRS positions.

[10] W.T. is a service that allows participants to withdraw physical stock or registered bond certificates from DTC and have them registered in a name other than Cede & Co., DTC's nominee name.

[11] 15 U.S.C. 78q-1(b)(3)(F).

[12] The prompt and accurate clearance and settlement of securities transactions includes the transfer of record ownership of securities. 15 U.S.C. 78q-1(a)(1)(A).

clearance and settlement of securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the act, that the proposed rule change (File No. SR–DTC–2001–07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20976 Filed 8–20–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44707; File No. 600–30]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Approving a Request for an Extension of Temporary Registration as a Clearing Agency

August 15, 2001.

Pursuant to section 19(a) of the Securities Exchange Act of 1934 (''Act'',)[1] notice is hereby given that on July 27, 2001, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') an application requesting that the Commission extend EMCC's temporary registration as a clearing agency.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to extend EMCC's temporary registration as a clearing agency through March 31, 2002.

EMCC was created to facilitate the clearance and settlement of transactions in U.S. dollar denominated Brady Bonds.[3] Since it began operations, EMCC has added certain sovereign debt to the list of eligible securities that may be cleared and settled at EMCC.[4] EMCC began operating on April 6, 1998, with ten dealer members. As of December 31, 2000, EMCC has 21 members. Since EMCC's inception, it has maintained a comparison rate of over 89% on trade date, reaching 99% prior to settlement date.[5]

On February 13, 1998, pursuant to sections 17A(b) and 19(a)(1) of the Act[6] and Rule 17Ab2–1 promulgated thereunder,[7] the Commission granted EMCC's application for registration as a clearing agency on a temporary basis under August 20, 1999.[8] By subsequent orders dated August 12, 1999,[9] and August 18, 2000,[10] the Commission extended EMCC's registration as a clearing agency through August 20, 2000, and August 31, 2001, respectively.

As part of EMCC's initial temporary registration, the Commission granted EMCC temporary exemption from section 17A(b)(3)(B) of the Act because EMCC did not provide for the admission of some of the categories of members required by that section.[11] To date, EMCC's rules still only provide membership criteria for U.S. broker-dealers, United Kingdom broker-dealers, U.S. banks, and non-U.S. banks. As the Commission noted in the Registration Order, the Commission believes that it is appropriate for EMCC to limit the categories of members during its initial years of operations because no entity in a category not covered by EMCC's rules desires to be a member.[12] Accordingly, the Commission is extending EMCC's temporary exemption for section 17A(b)(3)(B).

The Commission also granted EMCC a temporary exemption from sections 17A(b)(3)(A) and 17A(b)(3)(F) of the Act to permit EMCC to use, subject to certain limitations, ten percent of its clearing fund to collateralize a line of a credit at Euroclear to finance on an intraday basis the receipt by EMCC of eligible instruments from one member that EMCC will redeliver to another member.[13] The Registration Order limited EMCC's use of clearing fund deposits for this intraday financing to the earlier of one year after EMCC commenced operations or the date on which EMCC begins its netting service. On April 2, and May 17, 1999, the Commission approved rule changes that permitted EMCC to implement a netting service and that extended EMCC's ability to use clearing fund deposits for intraday financing at Euroclear until all EMCC members are netting members.[14] Because not all of EMCC's members have become netting members, the Commission is extending EMCC's temporary exemption from section 17A(b)(3)(A) and (F).

Finally, the Government Securities Clearing Corporation (''GSCC''), the Mortgage Backing Securities Clearing Corporation (''MBSCC''), and EMCC are currently taking steps toward integration of GSCC, MBSCC, and EMCC and the acquisitin of these clearing agencies by The Depository Trust and Clearing Corporation. Because EMCC's governance and organizational structure will be affected by the acquisition and integration, the Commission is extending EMCC's registration as a clearing agency on a temporary basis through March 31, 2002.

Interested persons are invited to submit written data, views, and agruments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with section 19(a)(1) of the Act.[15] 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 amended application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All submissions should refer to File No. 600–30 and should be submitted by September 11, 2001.

It is therefore ordered, pursuant to section 19(a) of the Act, that EMCC's registration as a clearing agency (File No. 600–30) be and hereby is temporarily approved through March 31, 2002.

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(a).

[2] Letter from Merrie Faye Witkin, Assistant Secretary, EMCC (July 26, 2001).

[3] Brady bonds are restructured bank loans that were first issued pursuant to a plan developed by then U.S. Treasury Secretary Nicholas Brady to assist debt-ridden countries restructure their sovereign debt into commercially marketable securities. The plan provided for the exchange of bank loans for collateralized debt securities as part of an internationally supported sovereign debt restructuring. Typically, the principal and certain interest of these bonds is collateralized by U.S. Treasury zero coupon bonds and other high grade instruments.

[4] Securities Exchange Act Release Nos. 40363 (Aug. 25, 1998), 63 FR 46263 (Aug. 31, 1998) and 41618 (July 14, 1999), 64 FR 39181 (July 21, 1999).

[5] EMCC 2000 Annual Report.

[6] 15 U.S.C. 78q–1(b) and 78s(a)(1).

[7] 17 CFR 240.17Ab2–1.

[8] Securities Exchange Act Release No. 39661 (Feb. 13, 1998), 63 FR 8711 (Feb. 20, 1998) (''Registration Order'').

[9] Securities Exchange Act Release No. 41733 (Aug. 12, 1999), 64 FR 44982 (Aug. 18, 1999).

[10] Securities Exchange Act Release No. 43182 (Aug. 18, 2000), 65 FR 51880 (Aug. 25, 2000).

[11] Registration Order at 8716.

[12] EMCC has represented to the staff that it will modify its rules to provide admission criteria for other entities that wish to become EMCC members.

[13] Registration Order at 8720.

[14] Securities Exchange Act Release Nos. 41247 (Apr. 2, 1999), 64 FR 17705 (Apr. 12, 1999) and 41415 (May 17, 1999), 64 FR 27841 (May 21, 1999).

[15] 15 U.S.C. 78s(a)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21018 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44704; File No. SR–NASD–2001–51]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to the Opening of Nasdaq's SelectNet Service at 8:00 a.m. Eastern Time

August 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 14, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary The Nasdaq Stock Market, Inc. (''Nasdaq''), 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 Nasdaq. Nasdaq filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(5) thereunder,[4] as one effecting a change in an existing order-entry or trading system of a self-regulatory organization, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to open its SelectNet service (''SelectNet'') at 8:00 a.m. Eastern Time (''ET''). Nasdaq will implement this rule change on September 4, 2001. The text of the proposed rule change is below. Proposed new language is in italics.

4720. SelectNet Service

(a)–(c) No Change.

(d) Hours of Operation

The SelectNet Service shall operate from 8:00 a.m. ET to 6:30 p.m. ET.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq has prepared summaries, set forth in Section 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

I. Purpose

Nasdaq's SelectNet Service is an order negotiation and delivery service that allows market participants to direct or broadcast orders to buy or sell Nasdaq securities to market makers or Electronic Communication Networks (''ECNs''). Trades executed through SelectNet are confirmed to the parties and the trade is automatically sent to Nasdaq's Automated Confirmation Transaction Service (''ACT'') and sent to clearing as ''locked-in'' transactions. Currently, Nasdaq operates SelectNet from 9 a.m. to 6:30 p.m. ET. In response to requests from market participants seeking to expand their usage of SelectNet's communication and execution capabilities prior to normal market hours, Nasdaq has determined to open SelectNet one hour earlier, starting at 8 a.m. ET. Nasdaq will commence operating SelectNet at 8 a.m. starting September 4, 2001. Opening SelectNet earlier should further assist market participants in accessing trading partners prior to the Nasdaq market open. In turn, this enhanced access will provide more opportunities for Nasdaq market participants to manage pre-open order flows and engage in robust price discovery.

2. Statutory Basis

Nasdaq believes the proposed rule change is consistent with section 15A(b)(6) of the Act,[5] in that the proposal is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing information with respect to and facilitating transactions in securities, as well as removing impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposal has become effective pursuant to section 19(b)(3)(A) of the Act,[6] and Rule 19b–4(f)(5)[7] thereunder, in that it effects a change in an existing order-entry or trading system of a self-regulatory organization that does not: (1) Significantly affect the protection of investors or the public interest, (2) impose any significant burden on competition, or (3) have the effect of limiting the access to or availability of the system.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from he public in accordance with the provision

[16] 17 CFR 200.30–3(a)(16).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(5).

[5] 15 U.S.C. 78o–3(b)(6).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(5).

of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to file number SR–NASD–2001–51 and should be submitted by September 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21015 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44706; File No. SR–NASD–2001–50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. Relating To Trade Reporting of Listed Securities

August 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 13, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] which renders the proposal effective upon filing with the Commission. On August 14, 2001, Nasdaq amended the proposal.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] *See* August 13, 2001 letter from Thomas P. Moran, Office of General Counsel, Nasdaq to Alton Harvey, Division of Market Regulation, Commission (''Amendment No. 1''). In Amendment No. 1, Nasdaq converted the proposal to a non-controversial filing pursuant to Rule 19b–4(f)(6). 17 CFR 240.19b–4(f)(6). Nasdaq has asked the Commission to waive the 5-day pre-filing notice requirement and the 30-day operative delay contained in Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to make permanent 90-second trade reporting for over-the-counter transactions in listed securities that take place between 4 p.m. and 6:30 p.m. Eastern Time (''ET''). This proposed rule change is designed to conform the trade reporting obligations for transactions involving listed securities with those now in place for Nasdaq National Market, SmallCap, Convertible Debt and over-the-counter equity issues that were alerted as part of a separately operating pilot program extending the availability of several Nasdaq services and facilities until 6:30 p.m. ET.[5] The text of the proposed rule change is below. Proposed new language is in italics. Proposed deletions are in brackets.

* * * * *

6400. REPORTING TRANSACTIONS IN LISTED SECURITIES

6420. Transaction Reporting

(a) When and How Transactions are Reported

(1) Registered Reporting Members shall transmit through ACT, within 90 seconds after execution, last sale reports of transactions in eligible securities executed during the trading hours of the Consolidated Tape otherwise than on a national securities exchange. Registered Reporting Members shall also transmit through ACT, within 90 seconds after execution, last sale reports of transactions in eligible securities executed in the United States otherwise than on a national securities exchange between 4 p.m. and [5:15] *6:30* p.m. Eastern Time. Transactions not reported within 90 seconds after execution shall be designated as late and such trade reports must include the time of execution.

(2)(A) No Change

(B) Non-registered Reporting Members shall, within 90 seconds after execution, transmit through ACT or the ACT Service Desk (if qualified pursuant to Rule 7010(i), or if ACT is unavailable due to system or transmission failure, by telephone to the Nasdaq Market Operations Department, last sale reports of transactions in eligible securities executed in the United States otherwise than on a national securities exchange between the hours of 4 p.m. and [5:15] *6:30* p.m. Eastern Time. Transactions not reported within 90 seconds after execution shall be designated as late and such trade reports must include the time of execution.

(3)(A) All members shall report transactions in eligible securities executed outside the hours of 9:30 a.m. and [5:15] *6:30* p.m. Eastern Time as follows:

[5] *See* Securities Exchange Act Release No. 42003 (October 13, 1999), 64 FR 56554 (October 10, 1999) (SR–NASD–99–57) (order extending the operation of certain Nasdaq services and facilities until 6:30 p.m. ET).

(i) by transmitting the individual trade reports through ACT on the next business day (T+1) between 8 a.m. and [5:15] *6:30* p.m. Eastern Time;

(ii) No Change.

(iii) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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

Nasdaq's Third Market is a quotation, communication and execution system that allows NASD members to trade stocks listed on the New York Stock Exchange (''NYSE'') and the American Stock Exchange (''AMEX''). The NASD collects quotations from broker-dealers that trade these securities over-the-counter and provides such quotations to the Consolidated Quotation System for dissemination. Additionally, the NASD collects trade reports from these broker-dealers trading such securities in the over-the-counter market and provides the trade reports to the Consolidated Tape Association (''CTA/CQA'') for inclusion in the Consolidated Tape. From 9:30 a.m. to 4 p.m. Eastern Time, NASD members registered as CQS market makers use Nasdaq's Computer Assisted Execution System (''CAES'') to access the quotes of other CQS market makers and the Intermarket Trading System (''ITS'') to access the quotes of other U.S. exchanges. Operation of ITS/CAES after 4 p.m. is consistent with all rules and procedures currently applicable to ITS/CAES trading and quotation activity during normal market hours.

In October of 1999, the Commission approved, on a pilot basis until March 1, 2000, a Nasdaq rule change mandating 90-second trade reporting of transactions in listed securities executed by NASD members in the third market until 6:30 p.m. ET. Previously, NASD member firms had to report such transactions within 90 seconds only until 5:15 p.m. ET. Due to an

administrative oversight by Nasdaq, the rule was not extended when its pilot approval terminated on March 1, 2000. Despite this lapse, NASD firms have continued to report listed trades done before 6:30 p.m. within 90 seconds of execution.[6] To avoid such lapses in the future, and as an expression of its intent that 90-second after-hours trade reporting in listed securities should not have lapsed at any time, Nasdaq has determined to file the instant proposal to make permanent the rule mandating 90-second ACT trade reporting for all transactions in listed securities executed by NASD members prior to 6:30 p.m. ET. Nasdaq believes that 90-second trade reporting is an important component in increasing transparency and improving investor protection outside of normal market hours. By permanently extending 90-second listed trade reporting to 6:30 p.m. ET, the rule also becomes consistent with the Normal Business Hours of the Consolidated Quotation Service (''CQS'') established in NASD Rule 6340. Approval of the rule change will also conform the time-related trade reporting obligations for transactions involving listed securities with those now in place for Nasdaq National Market, SmallCap, Convertible Debt and over-the-counter equity issues that were altered as part of a separately operating pilot program extending the availability of several Nasdaq services and facilities until 6:30 p.m. ET.

2. Statutory Basis

Nasdaq believes that the proposed rule changes are consistent with the provisions of 15(a)(b)(6) of the Act[7] in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Nasdaq has requested that the Commission accelerate the operative date. The Commission finds good cause to waive the 30-day operative waiting period, because such designation is consistent with the protection of investors and the pubic interest. Acceleration of the operative date will correct the inadvertent lapse of the rule as soon as possible. For these reasons, the Commission finds good cause to waive both the 5-day pre-filing requirement and the 30-day operative waiting period.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withdrawn from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to file number SR–NASD–2001–50 and should be submitted by September 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21016 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

[6] Nasdaq notes that the inadvertent lapse of the rule did not impact any firm's ultimate obligation to report third market trades. Instead, the rule governed only the time period after execution in which a member must report. *See* NASD Rule 6420(3)(A).

[7] 15 U.S.C. 78o–3(b)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 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).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44695; File No. SR–PCX–2001–32]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Order Service Firms

August 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notices is hereby given that on August 7, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt PCX Rule 6.60 (''Order Service Firms'') to allow members and member organizations to accept orders for the purchase and sale of stocks and futures contracts (and options thereon) from Exchange Market Makers and to forward such orders to the appropriate marketplace for execution. The text of the proposed rule change is available at the Office of the Secretary, the PCX and the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 7 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections, A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to allow PCX members and member organizations to accept orders for the purchase and sale of stocks and futures contracts (and options thereon) from Exchange Market Makers and to forward such orders to the appropriate marketplace for execution. Members or member organizations who conduct an order execution service (''order service'') typically have as its primary function the execution of hedging transactions in underlying stocks or futures for Exchange options Market Makers. The Exchange options floor members and their personnel route such orders to other markets for execution. The Exchange recognizes the order service business as a floor function for which Exchange approval will be required. The Exchange believes that the proposed rule serves to assist the Exchange in regulating the business activities that is members and member organizations engage in.

Under the requirements of the proposed rule change, members or member organizations seeking to act as Order Service Firms (''OSF'') would be required to register with the Exchange. An applicant for registration as an OSF would be required to file a written application with the Membership Department of the Exchange. Applications would be reviewed by the Exchange's Membership Committee. The Membership Committee would consider the applicant's financial condition, regulatory history, and such other factors the Membership Committee deems appropriate. After reviewing the application, the Membership Committee would either approve or disapprove the applicant's registration to become an OSF. Before registration, the Exchange's Membership Department, upon direction of the Membership Committee, would post the names of the member organization and its nominee(s) on the floor of the Exchange for at least three business days. The Exchange also proposes that an OSF be required to make available to Market Maker customers upon request a statement of financial condition as disclosed on its most recent balance sheet, which would be required to be prepared no later than the tenth business day following each calendar month-end. The Exchange believes that this would assist Market Makers in assessing the financial security of entrusting their orders with a particular OSF. The Exchange also believes that the proposed rule change would allow OSFs the ability to accept orders for the purchase or sale of commodity futures contracts (and options thereon). The OSF, however, would be required to comply with the Commodity Exchange Act (''CEA'') and the rules and regulations promulgated thereunder. Such a firm would be required to keep the Exchange's Department of Financial and Operational compliance Department (''FOCD'') apprised of its registration status under the CEA on an ongoing basis and also would be required to keep it appraised regarding any financial reporting or capital requirements.

The Exchange proposes that prior to accepting orders from Market Makers on the Floor of the Exchange, all OSF's would be required to have on file with the Exchange and in effect an updated Letter of Authorization issued for such firm by a member of the Options Clearing Corporation. That Letter of Authorizations would be required to be in a form prescribed by the Exchange and would be required to provide that the issuing Clearing Member accepts financial responsibility for all orders handled by the OSF on the Floor of the Exchange and for all financial obligations of the OSF to the Exchange. Further, the Exchange proposes that Exchange Clearing Members seeking to act as OSFs need not register as such in order to accept orders from Market for which they have an existing letter of Authorization. Clearing Members would not be permitted to authorize more than three OSFs without the prior written approval of the FOCD. In considering a request to authorize more than three such firms, the Exchange proposes that the FOCD considers the Clearing Member's level of access net capital, additional financial resources, and such other factors as the FOCD deems appropriate. Moreover, the Exchange has determined that because of the limited number of clearing firms that operate on its floor, Clearing Members that act as OSFs would not be counted towards the established limit of three.

Finally, the proposal provides that a Letter of Authorization must remain in effect until a written notice of revocation is filled with the Exchange. if the notice is filed within at least one hour prior to the opening of trading, the revocation would not become effective until the close of trading on that particular day. Upon request by the Clearing Members that files the notice of revocation, the Exchange would post the notice on the Floor of the Exchange.

The Exchange notes that the Commission has approved a similar rule filing of the Chicago Board Options Exchange, Inc. (''CBOE'').[3] The Commission approved a proposed rule change that recognized the existence of OSF's under CBOE Rules.[4] The Exchange believes that the proposed rule change would assist its regulatory staff in monitoring the activities of its members and member organizations so as to ensure that investors and the public interest are protected.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[5] in general, and furthers the objectives of section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and protect investors and the public interest by establishing a mechanism for improving the PCX regulatory function.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[3] *See* Securities Exchange Act Release No. 24814 (August 18, 1987), 52 FR 42224 (August 26, 1987) (order approving SR–CBOE–87–07).

[4] *Id.* In a subsequent amendment, the Commission approved the expansion of CBOE's OSF Rule to allow for the ability to take Market Maker orders for the purchase or sale of commodity futures contracts and options thereon. *See* Securities Exchange Act Release No. 34841 (October 14, 1994), 59 FR 52999 (October 20, 1994) (order approving SR–CBOE–94–16).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to section 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(6) thereunder.[8] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX.

All submissions should refer to File No. SR–PCXC–2001–32 and should be submitted by September 11, ,2001.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20977 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44697; File No. SR–PCX–2001–29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Options Floor Member Examinations

August 14, 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 July 26, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On August 2, 2001, the PCX amended the proposal.[3] The Exchange filed the proposal pursuant to Section 19(b)(3)A) of the Act,[4] and Rule 19b-4(f)(6)[5] thereunder, which renders the proposal effective upon filing with the Commission.[6] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new qualification examinations for PCX Options Market Makers and Floor Brokers. The text of the proposed rule change is available at the Commission and at the PCX.

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 its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The 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 PCX currently administers examinations to qualify applicants to perform the functions of Market Makers and Floor Brokers on the Options Floor of the Exchange. Market Makers and Floor Brokers are required to pass these examinations pursuant to PCX Rules 6.33 and 6.44, respectively. Before being able to operate in the capacity of an Options Market Maker or Options Floor Broker, a prospective member must successfully complete the proposed examination that corresponds to the individual's role as a floor member. The commission approved these examinations in 1993.[7]

The Exchange now proposes to replace the current examinations with new sets of questions and answers. The new Floor Member Examination, to be taken by both Market Maker and Floor Broker applicants, consists of 100 questions that cover a variety of topics, including: exercise of option contracts, margin and net capital, reporting of financial arrangements, rules on bid-ask spread differentials, priority of bids and offers, the Exchange's automatic execution system, opening and closing rotations, firm quotes, fast markets, trading halts, general market maker obligations, position and exercise limits and other such subjects. Floor Broker applicants must also take an additional examination consisting of 21 questions that cover various topics, including the following: due diligence, limit order display, order types, error accounts, crossing orders, public outcry requirement, priority of bids and offers, fast markets, trading rotations and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240..19b–4.

[3] *See* July 31, 2001 letter from Michael D. Pierson, Vice President, Regulatory Policy, PCX, to Joseph Morra, Special Counsel, Division of Market Regulation, Commission (''Amendment No. 1''). In Amendment No. 1, the Exchange clarified that (a) the Market Maker examination consists of 100 questions, and that applicants will be given three hours to take the examination; and (b) the Floor Broker examination consists of 121 questions, and that applicants will be given three and one half hours to take the examination.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] The Exchange provided the Commission with written notice of its intent to file the proposal on July 9, 2001. The Exchange has asked the Commission to waive the 30-day operative delay to allow the proposal to be effective upon filing with the Commission. *See* Rule 19b–4(f)(6). 17 CFR 240.19b–4(f)(6).

[7] *See* Securities Exchange Act Release No. 32550 (June 29, 1993), 58 FR 36489 (July 7, 1993) (order approving SR–PSE–91–15).

permitted use of telephones on the trading floor. Accordingly, Market Makers are required to answer 100 questions and Floor Brokers are required to answer 121 questions.

The questions in both exams are equally weighted. All of the questions in the exams are multiple choice, true/false or fill in the blank. Applicants for the Market Maker examination will be given three hours to complete the examination. Applicants for the Floor Broker examination will be given three and one half hours to complete the examination. The Exchange believes that the new examinations cover a wide range of relevant topics in detail, so that the examination requirement will help to ensure that only those candidates with a comprehensive knowledge of the specific rules of the Exchange, as well as an understanding of relevant provisions of the Act, will be eligible for floor membership.

2. Statutory Basis

The Exchange believes the proposal is consistent with the requirements of section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(5),[9] in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, protect investors and the public interest. The Exchange also believes that the proposal is consistent with sections 6(C)(1)(A) and (B) of the Act, which permit the Exchange to condition or deny membership status to persons who do not meet such standards of training experience or competence as prescribed by Exchange rules.

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

No written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interests;

(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[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to be operative upon filing with the Commission because such designation is consistent with the protection of investors and the public interest. The Exchange has modified its orientation program for new members who intend to take a qualification examination. The orientation is intended to cover all of the general topics that are included in the qualification examinations. The Exchange provides an orientation for new members on the last Wednesday of every month, and members generally are permitted to take the qualification examination on any day following the orientation. Acceleration of the operative date will allow the PCX to immediately implement the new examinations, thereby requiring new PCX members to be qualified based upon higher standards than those standards applied using the former examination and orientation. Higher standards are consistent with the protection of investors and the public interest. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to file number SR–PCX–2001–29 and should be submitted by September 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20980 Filed 8–20–01; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 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).

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

Federal Aviation Administration

[Docket No. OST–2001–9849]

Notice of Market-based Actions to Relieve Airport Congestion and Delay

AGENCY: Department of Transportation (DOT), Federal Aviation Administration (FAA).

ACTION: Request for public comment on possible market-based actions to relieve airport congestion and delay.

SUMMARY: The Department of Transportation (DOT) is gathering information on the possible role, feasibility, and effectiveness of using market-based approaches to relieve airline flight delays and congestion at busy airports. It is the Department's intention to use this and other requests for comment along with the full array of public policy tools to develop a comprehensive aviation strategy that focuses on ways to reduce delays, improve airport capacity management, enhance competition and promote the efficiency of the overall aviation system. Market-based approaches are broadly defined to include all market-pricing regimes that could encourage air carriers to use limited capacity in a more efficient manner. We intend to meet with representatives from airports, airlines, professional associations, and

other interested participants, to analyze and model available data, to review comments filed in this docket, and to use other means as appropriate to evaluate the possible use of market-based approaches at airports from a public policy perspective. DOT will use the information and data provided by interested parties, as well as our analysis, to develop appropriate policy on issues associated with the design, implementation, and impacts of the possible adoption of various market-based pricing regimes at airports. Parties filing comments are requested to discuss how market-based approaches would affect such public policy objectives as airline competition, general aviation, and small community access to important air travel markets. Delay problems at LaGuardia Airport are the subject of a separate notice and comment procedure.

DATES: Comments should be received by November 19, 2001.

ADDRESSES: Comments should be sent to: Docket Clerk, Docket No. OST–2001–9849, Room PL–401, United States Department of Transportation, 400 7th Street, SW., Washington, DC, 20590. Comments may also be sent electronically to the following Internet address: DMS.dot.gov. Comments may be filed and/or examined in Room Plaza 401 between 10:00 a.m. and 5:00 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Larry Phillips, Senior Economic Policy Advisor, 202–366–4868 or Nancy Kessler, Senior Attorney-Advisor, 202–366–9301. Comments placed in the docket will be available for viewing on the Internet.

SUPPLEMENTARY INFORMATION: Air traffic and airport delays impose substantial costs on air carriers, airports, and the traveling public. Nevertheless, despite the actions taken by airports to operate more efficiently, by airline managers to adjust their flight schedules in the face of growing delay, and by the Federal Aviation Administration (FAA) to introduce new technologies and streamline air traffic control procedures and processes, the number of flight delays reached unprecedented levels in 2000. Indeed, airline delays reported by the FAA in 2000 were 20 percent higher than they were in 1999, and substantially higher than they were during the previous record year (1990). While of varying significance, severe weather, air traffic volume and scheduling, air traffic equipment problems and runway construction (primarily runway and taxiway construction and repair work) all directly impact delay.

While efforts are underway to increase air traffic and airport capacity, it is conceivable, even likely, that delays will increase at some airports especially those that lack space to expand runways and terminals or where environmental concerns limit or foreclose capacity expansion.

Many airports already are experiencing unprecedented levels of flight delays. Last year, for example, almost 16 percent of flight operations (takeoffs and landings) at New York La Guardia Airport were delayed. At Newark International, the second most congested airport based on delayed flight statistics, over eight percent of all flights were delayed. While the magnitude of the delay problem is obvious in the Northeast, especially in Metropolitan New York City, and while delays recently have improved overall, delays remain a significant factor impacting operations at other busy airports. Delays can be worse when flights are ''bunched'' during certain times of the day rather than being spaced more evenly throughout the day. Today, airports do not set landing, takeoff, or terminal fees based on the time of day or the impact of an additional flight on congestion and delay.

Given the magnitude of the flight delay problem, DOT intends to explore all reasonable options, including the full range of market-based approaches and incentives/disincentives to allocate scarce airport capacity, that have the potential to bring into balance current supply (airport capacity) and demand (number of flight operations) while longer-term capacity expansion is pursued.

By the term ''market-based approaches'' we mean the development and imposition of airport fees that are designed specifically to encourage air carriers to use limited airport capacity in a more efficient manner. Such market-based approaches could include auctions (various forms), which would allocate a fixed number of operations for some particular period of time; congestion pricing, which contemplates charging air carriers not only for the costs they impose on an airport but also the delay costs they impose on other airport users;[1] peak-period pricing, which contemplates imposing fees based on the higher costs an airport incurs to accommodate demand during peak hours or the cost an airport does not incur because flights are shifted from busy periods of the day to less busy periods; and ''flat fees,'' which would restructure existing weight-based landing fees so that total airfield costs are recovered through a higher average fee, thereby affecting the mix of aircraft that operate at an airport.

The adoption of market-based approaches to improve the use of scarce resources is an established economic principle. Market-based approaches have been adopted in other industries to achieve a better balance between supply and demand—that is, the facility/service is used more than it otherwise would during off-peak periods and less than it otherwise would during peak periods. Peak-period surcharges and off-peak discounts might provide economic incentives to induce those air carriers that place a lower value on access to an airport facility/service during peak hours to shift to non-peak periods or to use less congested facilities or alternate services.

The adoption of market-based approaches may also be influenced by or possibly influence the current economic/competitive structure of the airline industry as well as existing regulatory imposed limitations on airports such as the High Density Rule. Comments are requested on how market-based approaches might be structured to achieve equitable airport access for all competing airlines.

Market-based approaches conceivably could reduce the need for airport proprietors to make investments to accommodate flights that, if assessed an appropriate market fee, would be uneconomic to operate during peak periods. By their willingness to pay higher peak-period fees, airport users would have demonstrated the value of capacity-enhancing investments and airport proprietors would know that such investments are economically justified.

Certain types of market-based fees could result in airports receiving revenues in excess of their operating and capital costs. DOT is interested in comments on whether such ''surplus revenues,'' if any, should be used to encourage capacity enhancement either at the capacity-constrained airport, at another airport that is part of a proprietor's system, or elsewhere in the aviation system. We request comment on these and other issues, including options for the use of these revenues if a proprietor cannot expand capacity. Comments are also requested on

[1] An airline's scheduling decisions are based in large part on the direct costs it expects to incur at an airport, not the costs its actions impose on competitors or competitors' customers, including the value of lost time for travelers who experience flight delays. As a result, the benefits an air carrier receives from scheduling an additional flight are not balanced against the full costs (private and external) imposed on all the parties using an airport, which can result in too many scheduled flights and thus congestion.

whether the imposition of market-based fees would reduce total air travel costs by reducing delay (and the time costs imposed on travelers) and/or by allowing aircraft operators to better schedule their flights and to use their equipment and personnel more efficiently, as well as the expected effects on airline competition, airfares, and the resulting impact on the supply and demand for air transport services.

In sum, market-based landing and take-off fees at congested airports could result in (1) more efficient use of airport facilities, (2) the recovery of costs from those parties that impose them on other airport users, (3) maximum customer access given limited capacity, and (4) a clear market-based justification for future airport investment decisions. Economists and transportation analysts have often called for the adoption of market-based approaches to allocate scarce air space and airport facilities more efficiently.[2]

Adopting airport market-based pricing policies that would allocate scarce airport facilities more efficiently—that is, to those air carriers that value use of the facility most highly at a specific time—could disrupt established airport and airline business practices. Moreover, using a market-based fee methodology to manage airport congestion and delays raises complex statutory, regulatory, and policy issues as well as difficult issues with respect to our international aviation obligations. Federal laws, regulations, and U.S. international obligations presently in place may restrict the types of alternate fee structures that airports may adopt, especially if higher/lower fees deviate significantly from traditional cost accounting and cost-allocation methodologies. Further, requirements that grant-funded airports be available for public use on fair and reasonable terms and without unjust discrimination could continue to make it difficult for airports to design workable market-based pricing regimes.

We mention these legal issues and factors as background and, for purposes of this notice, request that commenters set aside consideration of the current statutory, regulatory, or international authorities. We are seeking all suggestions on effective, comprehensive market-based solutions to controlling airport congestion even if some may fall outside the current legal framework. While we will consider pertinent legal issues in any policy options ultimately put forward for adoption, perceived legal impediments should not unduly limit comments in response to this request. Accordingly, we will defer consideration of current legal factors.

The purpose of this request for comment is to solicit the views of interested parties on whether there is an appropriate role for and on the potential effectiveness of market-based approaches for reducing flight delays and congestion. While we have identified a number of specific questions that we would like parties to address, we encourage respondents to identify and comment on other issues that they believe are relevant. For example, those commenters who believe that the adoption of one or more remedial administrative actions (e.g., a lottery) would allocate airport capacity in a more efficient and equitable manner than would the imposition of market-based approaches, are requested to identify and discuss administrative actions that could be considered and under what conditions, how they differ from market-based approaches, why they are better suited to address congestion than market-based approaches, and what would be the effect of such actions on air carriers and airport operations, general aviation, air traffic congestion, and airline competition.

Just as the nature and magnitude of the delay problem varies by airport, so do the abilities of airports to address congestion. There is ''no-one-size-fits-all'' solution to the airport congestion problem. For this reason, DOT is interested in understanding how market-based approaches, as well as administrative actions, could work today to relieve congestion at busy airports, including their design, implementation, and impacts.

Specific Questions for Comment

The following questions are illustrative of the types of considerations the Department is seeking to evaluate. We request comments, information, and/or data that would help answer the following questions, or related questions identified by respondents. Respondents need not address all questions and may combine responses to selected questions where appropriate:

(1) Should market-based mechanisms be considered to address the allocation of scarce aviation-access resources and thereby minimize delays resulting from congestion while maximizing customer service? If so, which specific mechanisms are most promising? Why?

(2) How should policymakers decide which airports might benefit from imposition of market-based approaches, such as congestion pricing or auctioning of landing and take-off rights for allocating airport capacity? What specific variables are relevant when making such decisions, e.g., available capacity, current flight volume, runway expansion initiatives, etc.?

(3) Will market-based pricing policies at airports help alleviate delay and congestion? Will they increase customer access to the airport or other nearby airports? If so, how?

(4) Will market-based approaches provide information on where, how much, and what type of new airport capacity is needed?

(5) Will market-based approaches for airport access improve the use of less-congested secondary airports? Are additional financial incentives and/or infrastructure investments needed to increase the use of secondary airports? Please comment on incentives that use revenues from a congested airport to steer users to secondary airports. Will greater use of secondary airports have a positive or negative impact on airline competition? Should airports in the same region that are not under the same ownership have the ability to promote the use of underused airports?

(6) If market-based approaches are not revenue neutral, how should ''surplus'' revenues be used? Should these revenues only be used to expand capacity at the airport where they are generated? Or should such revenues be used to meet regional or national capacity needs? If so, how?

(7) In what ways would the adoption of market-based approaches at airports affect new entry, airfares, air carrier competition, service to small communities, general aviation, and international air services? Could any adverse effects of market-based approaches be mitigated if used in conjunction with exemptions/differential pricing categories for new entrants, service to small communities, general aviation, and international air service?

(8) Would it be appropriate to extend certain aspects of market-based approaches solely to domestic operations or otherwise limit the applicability to international operations of market-based alternatives? What lessons can be learned from attempts by other countries to impose market-based pricing at their congested airports?

(9) What lessons can be learned from the use of peak- and off-peak pricing policies in other domestic industries (e.g., telecommunications, electric utility)?

(10) What will be the economic effects of market-based approaches on various

[2] For example, Transportation Research Board Special Report 255, Entry and Competition in the U.S. Airline Industry: Issues and Opportunities, 1999, pp. 130–131.

categories of airport users? The airport? The economy of the surrounding communities?

(11) Will hub operations by large network air carriers be affected if market-based approaches are adopted? If so, how?

(12) What benefits and/or cost savings can be achieved by airlines if airports adopt market-based approaches? What costs will airports save if such policies are adopted? What new costs will be imposed and/or travel options reduced?

(13) Should the elimination of all delays at an airport be the objective of any market-based policy adopted? If so, will that result in less than optimum use of scarce capacity? If not, how much delay is appropriate?

(14) How would any market-based approach take into account certain random factors (weather, runway repairs, etc.) that affect airport efficiency and delay?

(15) How would an airport calculate such market-based approaches as peak- and off-peak period fees or congestion pricing? (e.g., solely the congestion-related costs an airport incurs? The cost an airport forgoes from not having to build capacity to meet peak demand? The costs congestion imposes on all airport users, including air travelers? Some combination?)

(16) Under what conditions would alternate approaches, such as administrative options (e.g., lotteries, minimum aircraft size), reduce congestion and delay?

(17) In order to reduce delays to ''acceptable'' levels, how much would user charges have to be increased to shift or reduce demand?

(18) Will market-based approaches encourage/discourage the operation of certain types of aircraft?

(19) How should market-based approaches be designed to accommodate unexpected demand shifts?

(20) What data inputs/methodology will be needed to develop and sustain market-based approaches?

(21) Should market-based approaches be crafted to encourage airlines to operate large aircraft, maximizing the number of seats per turn?

(22) Should the use of market-based approaches be linked to airports and airlines vigorously pursuing ways to expand airport capacity?

Issued in Washington, DC, on August 15, 2001.

Susan McDermott,

Deputy Assistant Secretary for Aviation and International Affairs, Department of Transportation

Louise Maillett,

Acting Assistant Administrator for Policy, Planning, and International Aviation, Federal Aviation Administration.

[FR Doc. 01–20998 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Termination of Operating Authority of Certain Foreign Air Carriers

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Order to Show Cause, Docket OST–2001–10416, Order 2001–8–15.

SUMMARY: The Department is inviting comments on its tentative decision to terminate foreign air carrier permit and exemption authority held by eleven foreign air carriers. These foreign air carriers have failed to file revised family assistance plans with the Department and the National Transportation Safety Board, as required by the Foreign Air Carrier Family Support Act of 1997 (Act), 49 U.S.C. 41313, as amended by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) (P.L. 106–181; 114 Stat. 61; April 5, 2000). AIR–21 amended 49 U.S.C. 41313 to require, among other things, that foreign air carriers submit to the Department and the National Transportation Safety Board, by October 2, 2000, additional assurances for their respective plans to address the needs of families of passengers involved in aircraft accidents. Since the passing of the October 2, 2000 deadline, the Department has taken repeated measures to notify foreign carriers of their need to file revised plans, and to offer assistance to the affected carriers. Of the 231 foreign air carriers required to file revised plans, 220 have done so. The Department tentatively believes that the continued failure of the remaining eleven to file constitutes grounds for termination of those carriers' authority to serve the United States. Significantly, it is our understanding that all of the nonfiling foreign air carriers are either no longer in business, or no longer conduct any U.S. operations. The eleven foreign air carriers whose authority the Department proposes to terminate are: Aeronautica de Cancun, S.A.; AeroPeru; Air Alliance, Inc.; Empresa Ecuatoriana de Aviacion; Inter-Canadien (1991)/Inter-Canadian (1991); Lineas Aereas Mayas, S.A.; Pacific International Airlines, S.A.; Seagreen Air Transport Limited; Sobelair N.V./S.A.; Sociedad Ecuatoriana de Transportes Aereos, S.A.; and Transportes Aereos Ejecutivos, S.A. de C.V.

DATES: Objections to the issuance of a final order in this proceeding are due September 5, 2001. If objections are filed, answers to objections are due September 12, 2001. Persons filing pleadings should contact the Department's Foreign Air Carrier Licensing Division at the telephone number listed below for a list of persons to be served with objections and answers to objections.

ADDRESS: All documents in this proceeding, with appropriate filing copies, should be filed in Docket OST–2001–10416, addressed to Central Docket Management Facility, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Wellington, Foreign Air Carrier Licensing Division, U.S. Department of Transportation, Room 6412, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–2391.

Dated: August 15, 2001.

Susan McDermott,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 01–21001 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Request Review and Approval From the Office of Management and Budget (OMB) of a Proposed Public Collection of Information

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the FAA is planning to submit a proposed information collection request to the Office of Management and Budget (OMB) for review and approval. Through this notice, the FAA is soliciting comment on the proposed initial information request for application and subsequent reports (i.e. semi-annual facility performance statistics, archived data and user

complaint corrective actions) associated with meeting the criteria of a Qualified Internet Communication Provider (QICP) for the transmission of aviation weather, Notice to Airmen (NOTAM), and aeronautical data via the Internet.

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Comments may be mailed or delivered to the FAA at the following address: Mr. Steven Albersheim, Federal Aviation Administration, Aerospace Weather Policy Division, ARS–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Street, Federal Aviation Administration, Standards and Information Division (APF–100), 800 Independence Ave., SW., Washington, DC 20591, or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: *Title:* Criteria for Internet Communications of Aviation Weather, NOTAM, and Aeronautical Data.

Abstract: Aviation weather information is available on the Internet from a variety of government and vendor sources with minimal quality control. Users of the National Airspace System (NAS), dispatchers, pilots, and air traffic controllers/specialists have expressed interest in the ability to utilize the Internet to retrieve aviation weather text and graphic products for operational decision-making. The FAA is in the process of establishing criteria in an Advisory Circular (AC) for QICPs, who disseminate aviation weather, NOTAM, and aeronautical data via the Internet, for the purpose of ensuring the reliability, accessibility and security of the data and encouraging the identification of the approval status of products. A proposed AC will provide information on QICP criteria and recommended practices as well as the procedures for a provider to become a QICP. The FAA Aerospace Weather Standards Division (ARS–200) will maintain a current list of all QICPs on a designated Web page accessible by the general public.

A person or organization, at their option, may be designated as a QICP by meeting the criteria as listed in the AC. The criteria address such attributes as reliability, accessibility, and security and encourage the QICP to provide FAA with semi-annual reports of performance statistics. In addition, the FAA is recommending that QICPs should maintain a retrievable archive of Web server log files as well as data received and provided in each user transaction for a period of no less than 15 days. The purpose is to be able to retrieve information provided by/to a user in the event of an aircraft incident or accident. The QICP should make this data available in the form of a readable certified true copy upon request of the FAA, the National Transportation Safety Board or a Federal, state or local law enforcement agency.

To help the public know who is a QICP, the FAA plans to maintain a list of applicants who meet the criteria in the AC. Users of the NAS are encouraged to utilize services of qualified providers who are on the FAA list to ensure that they are accessing secure data. Further, the FAA plans to propose in a soon to be issued draft policy statement, that persons who conduct operations under Title 14 of the code of Federal Regulations parts 121 and 135 will not be permitted to use Internet communications for aeronautical decision making unless they obtain authorization from the Administrator, in their operations specifications. Such authorization will enable use of a QICP for Internet transmission of aeronautical data, NOTAM, and aviation weather information that will be used to determine whether to issue a dispatch or flight release for the operation of flights under those regulations.

For record keeping purposes, QICP applicants are requested to provide the following:

(1) Submit a letter of application to ARS–200 with the following attachments:

(a) Service Description
(b) Security Plan
(c) Capability Demonstration Plan
(d) Ongoing Maintenance Plan

(2) Satisfactorily complete the Capability Demonstration.

Semi-annually, QICPs should demonstrate ongoing maintenance by collecting facility performance statistics and providing them to the Aerospace Weather Standards Division (ARS–200). Additionally, QICPs should acknowledge and address user complaints within 14 days of receipt, and forward user complaints to the staff within 30 days of receipt with an explanation of actions taken.

Description and number of proposed respondents: It is anticipated that a limited number of applicants will elect to submit the requested information to become a QICP. It is estimated that the number of applicants will be 10.

Burden hours: It is estimated that each QICP applicant will require 568 hours for the initial application and 274 hours for each subsequent year. In total it is estimated that it will take 5,680 hours for the first year and 2,740 hours each subsequent year for renewal of their status of being a QICP.

An agency may not conduct or sponsor, and a person is not required to response to a collection of information unless it displays a currently valid OMB control number. Therefore, the FAA is soliciting comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, DC, on August 14, 2001.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 01–21087 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held September 13, 2001 starting at 9:00 am.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L. Street, NW, Suite 850, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L. Street, NW, Suite 850, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

September 13

- Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting)
- Publication Consideration/Approval:
  —Final Draft, *Minimum Aviation System Performance Standards (MASPS) of the Aeronautical Mobile-Satellite (R) Service (AMS(R)S as Used in Aeronautical Data Links,* RTCA Paper No. 194–01/PMC–156, prepared by SC–165.
  —Final Draft, *Minimum Operational Performance Standards (MOPS) for Aircraft VDL Mode 3 Transceiver Operating in the Frequency Range 117.975–137.000 MHz,* prepared by SC–172, RTCA Paper No. 190–01/PMC–154.
  —Final Draft, Change 1, DO–224A, *Signal-in-Space Minimum Aviation System Performance Standards (MASPS) for Advanced VHF Digital Data Communications Including Compatibility with Digital Voice Techniques,* RTCA Paper No. 212–01/PMC–160, prepared by SC–172.
  —Final Draft, DO–248B, Final Annual Report for Clarification of DO–178B *Software Considerations in Airborne Systems and Equipment Certification,* RTCA Paper No. 224–01/PMC–162, prepared by Joint Committee SC–190/WG–52.
  —Final Draft, *User Requirements for Aerodrome Mapping Information,* RTCA Paper No. 191–01/PMC–155, prepared by Joint Committee SC–193–WG–44.
  —Final Draft, *Response to the Report of the RTCA Chairman's Committee on NEXCOM,* RTCA Paper No. 243–01/PMC–166, prepared by SC–198.
  —Final Draft, Minimum Operational Performance Standards for Integrated Night Vision Imaging System Equipment, RTCA Paper No. 238–01/PMC–164, prepared by SC–196.
- Discussion
  —Special Committee 188, High Frequency Data Link; Request for Extension of due date.
  —Special Committee 189, NEXCOM; Update to Terms of Reference.
  —Special Committee 147, TCAS; Proposed Additional Tasking.
  —Special Committee Chairman's Report.
- Action Item Review
  —Action Item 05–01, Recommendation for a Multi-Function Display.
  —Action Item 06–01, Modular Avionics Special Committee to work jointly with EUROCAE Working Group.
- Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 15, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–21085 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 193/EUROCAE Working Group 44 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases.

DATES: The meeting will be held September 10–14, 2001 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at Hotel Mercure Bordeaux Airport, 1 Av Charles Lindbergh, Merignac, France 33700.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting. The agenda will include:

September 10

- Opening Plenary Session (Welcome and Introductory Remarks, Review/Approval of Meeting Agenda, Review Summary of Previous Meeting)
- Presentations/Discussions of formation of new Subgroup 4 (Database Exchange Format); Introduction of new Subgroup 4 Chairman
- Subgroup 2 (Terrain and Obstacle Database)
  —Review past minutes and actions; Presentations; Review of draft document; Begin Final Review and Comment (FRAC) process for Standards for Terrain and Obstacle Databases document.
- Subgroup 4 (Database Exchange Format)
  —Begin new subgroup 4; Establish goals and objectives for new subgroup; Start work on new document.

September 11, 12, 13

- Subgroups 2 and 4 continue discussions
- Plenary Forms
  —Complete FRAC process and achieve plenary consensus for the Standards for Terrain and Obstacle Databases document.

September 14

—Closing Plenary Session (Summary of Subgroups 2 and 4 meetings, Assign Tasks, Other Business, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 15, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–21086 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Dane County, Wisconsin

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The FHWA is issuing this notice to advise the public that an

environmental impact statement (EIS) will be prepared for the proposed improvements of the Madison West Beltline (USH 12/14) between USH 14 in Middleton &Todd Drive in Madison; and Verona Road (USH 18/151) between CTH PD & USH 12/14 in Madison; Dane County, Wisconsin

FOR FURTHER INFORMATION CONTACT: Mr. Johnny M. Gerbitz, Field Operations Engineer, Federal Highway Administration, 567 D'Onofrio Drive, Madison, Wisconsin 53719–2814; telephone: (608) 829–7511. You may also contact Ms. Carol Cutshall, Director, Bureau of Environment, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin 53707–7965; telephone: (608) 266–9626.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Offices' Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of **Federal Register** home page at: *http://www.nara.gov/fedreg* and the Government Printing Offices' database at: *http://www.access.gpo.gov/nara*.

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare an Environmental Impact Statement to improve the West Madison Beltline—USH 12/14 between USH 14 and Todd Drive, a distance of 8.28 miles; and Verona Road—USH 18/151 between CTH PD and USH 12/14, a distance of 1.81 miles.

The anticipated format for the EIS will be Screening Worksheets rather than the typical narrative form. The Wisconsin Department of Transportation has developed a series of Environmental Screening Worksheets which are divided into Basic Sheets and Factor Sheets. The Screening Worksheets provide a flexible means of addressing the requirements for an Environmental Document.

The improvements to these two highways are considered necessary to provide capacity for existing and projected traffic demand, to reduce high crash rates, and provide better connectivity between land areas adjacent to the highways.

Planning, environmental, and engineering studies are underway to develop transportation alternatives. The EIS will assess the need, location, and environmental impacts of alternatives within the study area. These alternatives include:

(1) *No Build*—this alternative assumes the continued use of existing facilities with the maintenance necessary to ensure their use;

(2) *Upgrade the Existing Facilities*—this alternative would improve traffic handling capabilities and safety by reconstructing the roadway and interchanges. This may include the reconfiguration of one or more interchanges;

(3) *Beltline Crossovers*—this alternative would complement the other two alternatives to provide additional Beltline crossings for vehicles, bicycles, and pedestrians. All alternatives will examine improvements to bicycle and pedestrian facilities.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously expressed, or are known to have interest in this proposal. A series of public meetings will be held in the project corridor throughout the data gathering and development of alternatives. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the hearing. As part of the scoping process, coordination activities have begun. Scoping meetings will continue to be held on an individual or group meeting basis. Agency coordination will be accomplished during these meetings.

To ensure that the full range of issues related to this proposed action are addressed, and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or the Wisconsin Department of Transportation at the addresses provided in the caption **FOR FURTHER INFORMATION CONTACT.** (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: August 14, 2001.

Johnny M. Gerbitz,

Field Operations Engineer, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 01–20931 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Great Miami & Scioto Railway Company

[Docket Number FRA–2000–7349]

The Great Miami & Scioto Railway Company owns and operates a caboose, number GMRY 783, which was built in 1954. This caboose is not used in regular service, but only on a limited basis to transport railroad officials and private persons for typical railroad business purposes. The caboose will primarily be stored on a live rail siding for display. The car operates on the Great Miami & Scioto Railway in Ross, Jackson, and Vinton Counties in Southeast Ohio, a rural/suburban area. The current window glazing in this caboose has become frosted and requires replacement. The GMRY requests relief from the requirements of Title 49 Code of Federal Regulations (CFR) § 223.13 Requirements for existing cabooses due to the infrequent use of the caboose, the planned usage for private party transportation, and the cost of installing compliant glazing. The GMRY proposes to install an automotive type safety glazing as an alternative to the FRA Types I & II.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2000–7349) and must be submitted to: Docket Clerk, DOT Central Docket Management Facility, Room P1–401, 400 Seventh Street, SW, Washington, DC 20590–0001. Communications received within

45 days of the date will be considered as far as practical. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC on August 15, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–21079 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Sound Transit

[Docket Number FRA–2000–8266]

Sound Transit seeks a permanent waiver of compliance from Title 49 of the CFR for operation of a new ''Tacoma Line'' light rail line at a ''limited connection'' with The Burlington Northen and Santa Fe Railway Company (BNSF). Sound Transit is building the Tacoma Link, which will intersect the BNSF Prairie Line at a rail crossing located in the City of Tacoma, Washington. The Tacoma Line will be within a highway at the rail grade crossing.

Sound Transit originally submitted a waiver petition on September 25, 2000, seeking relief from the Passenger Equipment Safety Standards (49 CFR part 238), as Tacoma Link is a light rail transit operation except for the minor crossing connection. On July 20, 2001, Sound Transit amended their original petition to also include relief from Part 223, Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses; Part 231, Railroad Safety Appliance Standards; Part 219, Control of Alcohol and Drug Use; Part 220, Railroad Communications, and Part 239, Passenger Train Emergency Preparedness.

Sound transit indicates that BNSF is subject to FRA's regulations and maintains and operates certain elements of the rail crossing for the proposed project. Sound Transit also states that the requirements for its light rail vehicles should be considered as similar to buses, autos, and all other street vehicles, wherein efforts are put into having warning equipment and procedures to reduce the probability and severity of an accident. See *Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment,* 65 FR 42529 (July 10, 2000). See also *Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems,* 65 FR 42626 (July 10, 2000).

Since FRA has not yet concluded its investigation of the Tacoma Link, the agency takes no position at this time on the merits of Sound Transit's stated justifications.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with the request for a waiver of certain regulatory provisions. If any interested party desires an opportunity for oral comment, he or she should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request. All communications concerning these proceedings should identify the appropriate docket number (Docket Number FRA 2000–8266) and must be submitted to the DOT Docket Management Facility, Room PL–401 (Plaza level) 400 Seventh Street, SW., Washington, DC 20590. All documents in the public docket, including Sound Transit's detailed waiver request, are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.* Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility.

Issued in Washington, D.C. on August 15, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–21080 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2001–10158]

Applicants

CSX Transportation, Incorporated, Mr. Eric G. Peterson, Assistant Chief Engineer, Signal Design and Construction, 4901 Belfort Road, Suite 130 (S/C J–370), Jacksonville, Florida 32256

Union Pacific Railroad Company, Mr. Phil M.. Abaray, Chief Engineer—Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000

CSX Transportation, Incorporated (CSX) and the Union Pacific Railroad Company (UP) jointly seek approval of the proposed discontinuance and removal of the automatic interlocking at Nashville, Illinois, on CSX's Nashville Division, St. Louis Subdivision, milepost 00H434.7, where the CSX single main track crosses at grade the single main track of UP's St. Louis Service Unit, Sparta Subdivision at milepost 32.6. The proposed changes include the discontinuance and removal of the four automatic interlocking signals at the rail grade crossing, installation of stop boards at all four quadrants, and retention of inoperative approach signals for each route.

The reason given for the proposed changes is that the signal facilities are no longer needed in present day operation, as only one local train operates daily, Sunday through Friday, with no hazardous materials.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the

interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on August 15, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and, Program Development.

[FR Doc. 01–21081 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Port of Los Angeles

[Docket Number FRA–2001–10237]

The Port of Los Angeles, with the cooperation and input of Pacific Harbor Lines, Inc., seeks a permanent waiver of compliance from certain CFR parts of Title 49, specifically: Part 217—Railroad Operating Rules; Part 220—Railroad Communications; Part 221—Rear End Marking Device—Passenger, Commuter and Freight Trains; Part 223—Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses; Part 225—Railroad Accident/Incident Reporting; Part 228—Hours of Service of Railroad Employees, Subpart A, General and Subpart B, Records and Reporting; Part 229—Locomotive Safety Standards; Part 231—Railroad Safety Appliance Standards; Part 238—Passenger Equipment Safety Standards; and Part 239—Passenger Train Emergency Preparedness.

The Port of Los Angeles seeks approval of shared track usage and waiver of certain FRA regulations involving the ''Waterfront Red Car Line'' vintage trolley operation on the same track that would be shared with freight trains operated by Pacific Harbor Line, Inc. FRA currently has jurisdiction over the Pacific Harbor Line, Inc., a railroad operation which is connected to the general railroad system of transportation. Specifically, the Port of Los Angeles intends for the ''Waterfront Red Car Line '' to make use of 1.5 miles of the Pacific Harbor Line, Inc., located in the Port of Los Angeles. Freight and vintage trolley operations would be temporally separated on this portion of track. See *Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment* at 65 FR 42529 (July 10, 2000). See also *Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems* at 65 FR 42626 (July 10, 2000).

Since FRA has not yet concluded its investigation of the ''Waterfront Red Car Line'' vintage trolley, the agency takes no position at this time on the merits of the stated justifications of the Port of Los Angeles.

All communications concerning these proceedings should identify the appropriate docket number (Docket Number FRA 2001–10237) and must be submitted to the DOT Docket Management Facility, Room PL–401 (Plaza level) 400 Seventh Street, SW., Washington, DC 20590. All documents in the public docket, including the detailed waiver request of the Port of Los Angeles, are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.* Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility.

Issued in Washington, DC on August 15, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–21082 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

Privacy Act of 1974; Systems of Records

AGENCY: Federal Law Enforcement Training Center, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Federal Law Enforcement Training Center (FLETC), Treasury, is publishing its Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB), Circular No. A–130, the FLETC has completed a review of its Privacy Act systems of records notices to identify changes that will more accurately describe these records.

The three systems of records have been revised by updating the language describing the storage of the data to read ''Various electronic media and paper files.'' In addition, the description of the retention and disposal procedures for each system of records has been updated.

Systems Covered by This Notice

This notice covers all systems of records adopted by FLETC up to June 1, 2001. The systems notices are reprinted in their entirety following the Table of Contents.

Dated: August 7, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Table of Contents

FLETC .001–FLETC Payroll/Personnel Records System
FLETC .002–FLETC Trainee Records
FLETC .004–FLETC Administrative Employee Records

Federal Law Enforcement Training Center

Treasury/FLETC.001

SYSTEM NAME:

FLETC Payroll/Personnel Records System—Treasury/FLETC.

SYSTEM LOCATION:

FLETC, Office of Planning and Resources, Building 94, Glynco, GA 31524. Systems are also located at other FLETC facilities. (See FLETC Appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

All payroll records including Standard Forms 50 and 52, time and attendance reports, leave status, health and life insurance requests, payroll deduction requests, employee training, performance evaluations, retirement records, medical/treatment/injury records, and Equal Employment Opportunity and personnel records consisting of records other than those described and reported by the Office of Personnel Management on behalf of all agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 5 U.S.C. 4101 et seq; Executive Order No. 11348, dated April 20, 1967, and Treasury Order 140–01, dated September 20, 1994.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the individual's parent agency and Federal regulatory agencies on a ''need to know'' basis which include the Department of Labor, Department of Health and Human Services, Merit Systems Protection Board, Federal and Labor Relations Authority, Equal Employment Opportunity Commission and the Office of Personnel Management concerning pay, leave, benefits, retirement deductions, and other information necessary for OPM to carry out its government-wide personnel management functions.

THESE RECORDS AND INFORMATION IN THE RECORDS MAY BE USED TO:

(1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceeding; (4) disclose information to foreign governments in accordance with formal or informal international agreements; (5) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (7) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (8) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various electronic media and paper files.

RETRIEVABILITY:

Social Security Number, name, position, and/or organizational element.

SAFEGUARDS:

Physical security, personal access codes, and identification confirmations are all used to prevent unauthorized disclosure of records.

RETENTION AND DISPOSAL:

Disposition as described by General Records Schedules 1 and 2 issued by the National Archives and Records Administration. For more information contact: Records Management Officer, FLETC, OIM/ISD/IRM, Townhouse 389–C, Glynco, GA 31524.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Planning and Resources, Building 94, FLETC, Glynco, GA 31524.

NOTIFICATION PROCEDURE:

The individual must provide full name, Social Security Number, and date of employment at the FLETC to the System Manager.

RECORD ACCESS PROCEDURES:

By written request to the System Manager.

CONTESTING RECORD PROCEDURES:

See ''Record access'' above.

RECORD SOURCE CATEGORIES:

The employee on whom the record is maintained, prior employers, client agencies and the FLETC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FLETC.002

SYSTEM NAME:

FLETC Trainee Records—Treasury/FLETC.

SYSTEM LOCATION:

FLETC, Office of Planning and Resources, Building 94, Glynco, GA 31524, and at the FLETC facility located in Artesia, NM. (See FLETC Appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who officially attends a FLETC-sponsored Training Program, Symposium, or similar event.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal background information supplied by the trainee; grades and performance or conduct evaluations, advisory letters to parent agencies, class rosters/photographs and relevant health/physical conditioning.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Order 140–01, dated September 20, 1993, and Memorandum of Understanding for the Sponsorship and Operation of the Consolidated Federal Law Enforcement Training Center, dated September 30, 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure upon request to the individual's parent agency, to a prospective Federal employer, and to other government officials involved in training or research.

THESE RECORDS AND INFORMATION IN THE RECORDS MAY BE USED TO:

(1) Disclose to the Office of Personnel Management concerning pay, leave, benefits, retirement deductions, and other information necessary for OPM to carry out its government-wide personnel

management functions; (2) disclose pertinent information to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various electronic media and paper files.

RETRIEVABILITY:

Name, class number, and Social Security Number.

SAFEGUARDS:

Access to these systems of records will be controlled by software, hardware, and other physical security procedures. Software will be used to ensure, in all technically feasible ways, that data cannot be made available to unauthorized persons. User-identifiers and passwords will be used where feasible to protect the data. Physical security will protect all terminals, disks and tapes, and paper archives from access by unauthorized persons. Offices will be locked except when authorized persons are present. Warehoused paper records are secured, the building alarmed, and access controlled by the Records Management Officer.

RETENTION AND DISPOSAL:

Records are retained at the FLETC for 40 years in accordance with a National Archives and Records Administration-approved disposition authority. Records are then destroyed by shredding or burning. For more information contact: Records Management Officer, FLETC, OIM/ISD/IRM, Townhouse 389–C, Glynco, GA 31524.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Planning and Resources, Building 94, FLETC, Glynco, GA 31524.

NOTIFICATION PROCEDURE:

The individual must provide full name, proof of identity, Social Security Number, date of birth, parent agency, type of course and approximate dates of attendance to the System Manager.

RECORD ACCESS PROCEDURES:

By formal letter to the System Manager.

CONTESTING RECORDS PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

The trainee himself and members of the staff responsible for the administrative processing and training of that individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FLETC.004

SYSTEM NAME:

FLETC Administrative Records-Treasury/FLETC.

SYSTEM LOCATION:

FLETC, Office of Planning and Resources, Building 94, Glynco, GA 31524, and at the FLETC facilities located in Artesia, NM. (See FLETC Appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students, current employees, past employees, employees of client agencies, contractor employees, guests, and visiting personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Access Control/ Identification, Vehicle Registration and Driver Violation, Equipment Control, Property Pass/Accountability, Lost and Found, Key Assignment, Safety and Occupational Health Program, Security Incident, Emergency Services, Administrative Inquiry, Instructor Management records and Resource and Marketing Mailing Lists.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

Treasury Order 140–01, dated September 20, 1994.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosure to the contract employer, the individual's parent agency, and Federal regulatory agencies on a ''need to know'' basis.

These records and information in the records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) disclose information to foreign governments in accordance with formal or informal international agreements; (5) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (7) provide information to unions recognized as exclusive bargaining representatives under the

Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (8) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various electronic media and paper files.

RETRIEVABILITY:

Name, Social Security Number, Employer, and/or Organizational Element.

SAFEGUARDS:

Physical security, personnel screening and computer passwords are all used to prevent unauthorized disclosure of records.

RETENTION AND DISPOSAL:

Disposition as described by the General Records Schedule issued by the National Archives and Records Administration. For more information contact: Records Management Officer, FLETC, OIM/ISD/IRM, Townhouse 389–C, Glynco, GA 31524.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Planning and Resources, Building 94, FLETC, Glynco, GA 31524.

NOTIFICATION PROCEDURE:

The individual must provide full name, proof of identity, social security number, and dates of duty at the Center to the System Manager.

RECORD ACCESS PROCEDURES:

By written request to the System Manager.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained, client agencies, employers, and the FLETC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FLETC Appendix A

Federal Law Enforcement Training Center, Glynco, GA 31524.

Federal Law Enforcement Training Center, Washington Office, 650 Massachusetts Avenue, NW., Washington, DC 20226.

Federal Law Enforcement Training Center, Artesia Facility, 1300 W. Richey Avenue, Artesia, NM 88210.

[FR Doc. 01–20946 Filed 8–20–01; 8:45 am]

BILLING CODE 4810–32–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–7: OTS Nos. H–3738, H–3739, and 05798]

First Charter, MHC, West Point, Georgia, Charter Financial Corporation, West Point, Georgia; Approval of Mutual Holding Company Reorganization

Notice is hereby given that on August 10, 2001, the Deputy Director, Office of Thrift Supervision, or his designee, acting pursuant to delegated authority, approved the applications of CharterBank, West Point, Georgia (the ''Savings Bank'') to reorganize into mutual holding company form (the ''Notice'') with a mid-tier holding company (''Charter Financial Corporation''); and the application of Charter Financial Corporation to acquire Charter Insurance Company as a wholly owned subsidiary. Copies of the applications and Notice are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Southeast Regional Office, Office of Thrift Supervision, 1475 Peachtree Street, NW., Atlanta, GA 30309.

Dated: August 15, 2001.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 01–20981 Filed 8–20–01; 8:45 am]

BILLING CODE 6702–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0080]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 20, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0080.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Claim for Payment of Cost of Unauthorized Medical Services, VA Form 10–583.

b. Funeral Arrangements, VA Form 10–2065.

c. Authority and Invoice for Travel by Ambulance or Other Hired Vehicle, VA Form 10–2511.

d. Authorization and Invoice for Medical and Hospital Services, VA Form 10–7078.

OMB Control Number: 2900–0080

Type of Review: Revision of a currently approved collection.

Abstract:

a. VA Form 10–583 is used by health care providers as a claim for the cost of unauthorized hospital care and by veterans as a claim for reimbursement of such cost.

b. VA Form 10–2065 is completed by clerical staff upon the death of a veteran in a VA medical care facility. It is used primarily in VA medical facilities and serves as an official record of the Funeral Director to which the person making funeral arrangements wishes the remains to be released. It is also used as a control document when VA is requested to arrange for the transportation of the deceased from the place of death to the place of burial, and/or when burial is requested in a National Cemetery.

c. VA Form 10–2511 is used by administrative personnel in VA facilities to authorize expenditures from the beneficiary travel account. It is also used to process payment for ambulance or other hired vehicular forms of transportation for eligible veterans to and from VA health care facilities for examination, treatment or care.

d. VA Form 10–7078 is used by administrative personnel in VA medical facilities to authorize expenditures from the medical care account and process payment of medical and hospital services provided by other than Federal health providers to VA beneficiaries.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on May 29, 2001, at pages 29208–29209.

Affected Public: Business or other for profit, Individuals or households, and Not for profit institutions.

Estimated Total Annual Burden: 32,742 hours.

a. VA Form 10–583—17,188.
b. VA Form 10–2065—3,071.
c. VA Form 10–2511—4,083.
d. VA Form 10–7078—8,400.

Estimated Average Burden Per Respondent:

a. VA Form 10–583—15 minutes.
b. VA Form 10–2065—5 minutes.
c. VA Form 10–2511—2 minutes
d. VA Form 10–7078—2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 480,100.

a. VA Form 10–583—68,750 hours.
b. VA Form 10–2065—36,850 hours.
c. VA Form 10–2511—122,500 hours.
d. VA Form 10–7078—252,000 hours.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0080'' in any correspondence.

Dated: August 10, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–20988 Filed 8–20–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0188]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 20, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0188.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Request to Submit Estimate, Form Letter 10–90.
b. Loan Follow-up Letter, Form Letter 10–426.
c. Veterans Application for Assistance in Acquiring Home Improvement and Structural Alterations, VA Form 10–0103.
d. Application for Adaptive Equipment Motor Vehicle, VA Form 10–1394.
e. Prosthetic Authorization for Items or Services, VA Form 10–2421.
f. Prosthetic Service Card Invoice, VA Form 10–2520.
g. Prescription and Authorization for Eyeglasses, VA Form 10–2914.

OMB Control Number: 2900–0188.

Type of Review: Extension of a currently approved collection.

Abstract:

a. Form Letter 10–90 is prepared by the VHA and issued to a contractor of the veteran's choice in order to solicit a price quote for a prosthetic device.

b. Form Letter 10–426 is used to inventory prosthetic devices loaned to eligible veterans. The form letter inventories the loaned items and solicits information from the beneficiary to determine the current status, the need to replace, extend the loan period or terminate the loaned items.

c. VA Form 10–0103 is used to determine eligibility/entitlement and reimbursement of individual claims for home improvement and structural alterations.

d. VA Form 10–1394 is used to determine eligibility/entitlement and reimbursement of individual claims for automotive adaptive equipment.

e. VA Form 10–2421 is used for the direct procurement of new prosthetic appliances and/or services and standardizes the direct procurement authorization process. The form eliminates the need for separate purchase orders, expedites patient treatment and improves the delivery of prosthetic services.

f. VA Form 10–2520 is used by the commercial vendors after completing repairs authorized for veterans by their Prosthetic Service Card to request payment by VA. The form standardizes repair/treatment invoices for prosthetic services rendered and standardizes the verification of these invoices. The veteran certifies that the repairs were necessary and satisfactory. This form is furnished to vendors upon request.

g. VA Form 10–2914 is used as a combination prescription, authorization and invoice. It allows veterans to purchase their eyeglasses directly. If the form is not used, the provisions of providing eyeglasses to eligible veterans may be delayed.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 31, 2001, at pages 29632–29633.

Affected Public: Business or other for profit and Individuals or households.

Estimated Total Annual Burden: 37,079 hours.

a. Form Letter 10–90—1,875.
b. Form Letter 10–426—242.
c. VA Form 10–0103—583.
d. VA Form 10–1394—2,711.
e. VA Form 10–2421—16,667.
f. VA Form 10–2520—3,334.
g. VA Form 10–2914—11,667.

Estimated Average Burden Per Respondent:

a. Form Letter 10–90—5 minutes.
b. Form Letter 10–426—1 minute.
c. VA Form 10–0103—5 minutes.
d. VA Form 10–1394—15 minutes.
e. VA Form 10–2421—4 minutes.
f. VA Form 10–2520—5 minutes.
g. VA Form 10–2914—4 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 519,844.

a. Form Letter 10–90—22,500.
b. Form Letter 10–426—14,500.
c. VA Form 10–0103—7,000.
d. VA Form 10–1394—10,844.
e. VA Form 10–2421—250,000.
f. VA Form 10–2520—40,000.
g. VA Form 10–2914—175,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0188'' in any correspondence.

Dated: August 10, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–20989 Filed 8–20–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0260]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 20, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0260.''

SUPPLEMENTARY INFORMATION:

Title: Request for and Consent to Release of Medical Records Protected by 38 U.S.C. 7332, VA Form 10–5345.

OMB Control Number: 2900–0260.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 10–5345 is used to obtain prior written consent from a patient before information concerning treatment for alcoholism or alcohol abuse, drug abuse, sickle cell anemia, or infection with the human immunodeficiency virus (HIV) can be disclosed from his or her medical record. This special consent must indicate the name of the facility permitted to make the disclosure, name of the individual or organization to whom the information is being released, specify the particular records or information to be released, and be under the signature of the veteran. It must reflect the purpose for which the information is to be used, and include a statement that the consent is subject to revocation and the date, event or condition upon which the consent will expire if not revoked before.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on June 4, 2001, at pages 30048–30049.

Affected Public: Business or other for profit, Individuals or households.

Estimated Total Annual Burden: 10,867 hours.

Estimated Average Burden Per Respondent: 2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 326,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0260'' in any correspondence.

Dated: August 10, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–20990 Filed 8–20–01; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 66, No. 162

Tuesday, August 21, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1180]

Grant of Authority for Subzone Status Deere & Company (Construction Equipment) Davenport, IA

Correction

In notice document 01–19471 appearing on page 40673 in the issue of Friday, August 3, 2001, make the following correction:

On page 40673, in the third column, in the signature block, the date should read ''Signed at Washington, DC, this 27th day of July 2001.''.

[FR Doc. C1–19471 Filed 8–20–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1181]

Grant of Authority for Subzone Status; Atlantic Richfield Company (Oil Refinery) Long Beach, CA Area

Correction

In notice document 01–19472 appearing on page 40673 in the issue of Friday, August 3, 2001, make the following correction:

On page 40673, in the second column, in the signature block, the date should read ''Signed at Washington, DC, this 27th day of July 2001. ''.

[FR Doc. C1–19472 Filed 8–20–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army, Corp of Engineers

Proposal To Reissue and Modify Nationwide Permits; Notice

Correction

In notice document 01–19841 beginning on page 42070 in the issue of Thursday, August 9, 2001, make the following correction:

On page 42090, in the third column, in the third paragraph, in the second line, the fraction ''1/10'', should read ''1/2''.

[FR Doc. C1–19841 Filed 8–20–01; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 925, 930, 931, 932, and 933

[No. 2001–17]

RIN 3069–AB06

Capital Requirements for Federal Home Loan Banks

Correction

In proposed rule document 01–19852 beginning on page 41462 in the issue of Wednesday, August 8, 2001, make the following correction:

On page 41462, in the third column, under the heading **ADDRESSES:**, in the third line, insert ''*bakere@fhfb.gov*'' after the word ''at''.

[FR Doc. C1–19852 Filed 8–20–01; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 930 and 932

[No. 2001–16]

RIN 3069–AB11

Unsecured Credit Limits for Federal Home Loans Banks

Correction

In proposed rule document 01–19851 beginning on page 41474 in the issue of Wednesday, August 8, 2001, make the following correction:

On page 41475, in the second column, in footnote number 1, in the third line, ''VMP'' should read ''FMP''.

[FR Doc. C1–19851 Filed 8–20–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
August 21, 2001

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Parts 54 and 79

Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program; Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 54 and 79

[Docket No. 97–093–5]

RIN 0579–AA90

Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations for the interstate movement of sheep and goats by requiring certain animal identification for sheep and goats moving interstate, by establishing a list of States that conduct an active State scrapie program that is consistent with Federal requirements, by establishing requirements for moving sheep and goats interstate from those States and from States that do not conduct such programs, by reinstituting an indemnity program for certain sheep and goats affected by scrapie, and by making other associated changes. These changes will help prevent the interstate spread of scrapie, an infectious disease of sheep and goats.

DATES: *Effective Date:* September 20, 2001. *Compliance Dates:* The compliance date for all requirements to identify animals that are not scrapie-positive animals, suspect animals, high-risk animals, exposed animals, or animals from an infected or source flock is November 19, 2001. The compliance date for all requirements for the identification of commercial whitefaced breeding sheep under 18 months of age and commercial breeding goats is February 18, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Diane Sutton, Senior Staff Veterinarian, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235, (301) 734–6954.

SUPPLEMENTARY INFORMATION:

Background

Scrapie is a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats. It is a member of a class of diseases called transmissible spongiform encephalopathies (TSE's). Its control is complicated because the disease has an extremely long incubation period without clinical signs of disease.

To control the spread of scrapie within the United States, the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), administers regulations at 9 CFR part 79, which restrict the interstate movement of certain sheep and goats. APHIS also has regulations at 9 CFR part 54, which describe a voluntary scrapie free flock certification program.

On November 30, 1999, we published in the **Federal Register** (64 FR 66791–66812, Docket No. 97–093–2) a proposal (referred to below as the November 30 proposal) to amend 9 CFR parts 54 and 79. We proposed three significant areas of change:

- Further restrictions on the interstate movement of sheep and goats from States that do not consider scrapie a reportable disease or do not quarantine infected flocks or source flocks. We also proposed standards describing how a State must conduct a quarantine in order to avoid further restrictions on interstate movement of animals.
- Additional official identification requirements for sheep and goats moved interstate to allow for a more effective national program for surveillance for scrapie and traceback of scrapie-positive animals. The proposed identification requirements were similar to current requirements for cattle and swine.

Reinstatement of a scrapie indemnification program for sheep and goats that owners agree to destroy. As proposed, the owners of destroyed high-risk animals and animals diagnosed as scrapie positive by an approved live-animal test would be eligible for indemnity payments.

We solicited comments concerning our proposal for 30 days ending December 30, 1999. We reopened and extended the deadline for comments until January 14, 2000, in a document published in the **Federal Register** on January 7, 2000 (65 FR 1074, Docket No. 97–093–3). We received 171 comments by that date. They were from State agriculture agencies, sheep and goat industry associations, sheep and goat producers, livestock auction and slaughter companies, and universities and researchers.

After receiving comments on the November 30 proposal, we published another proposed rule in the **Federal Register** on August 15, 2000 (65 FR 49770–49775, Docket No. 97–093–4, referred to below as the August 15 proposal). We solicited comments concerning the August 15 proposal for 30 days ending September 14, 2000. The August 15 proposal to amend 9 CFR part 79 fulfilled a promise made in the November 30 proposal, which stated that before the November 30 proposal was finalized, APHIS would develop and publish for comment a list of States that conduct an active scrapie program that is consistent with Federal requirements and, therefore, qualify as Consistent States. The August 15 proposal listed all 50 States as Consistent States and also proposed certain changes to the criteria by which States may qualify to be designated as Consistent States.

The comments received on both the November 30 proposal and the August 15 proposal, and the changes we are making in response to some of them, are discussed below by topic.

Definition of Certificate

We are making certain changes to the process for issuing certificates for sheep and goats. These changes are discussed later in this document in the discussion of § 79.5, ''Issuance of certificates.'' Because we are moving certain requirements from the definition of *certificate* in §§ 54.1 and 79.1 to § 79.5, we are also changing the definition of *certificate* to read, ''An official document issued in accordance with § 79.5 of this chapter by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals.''

Definitions of Exposed Animal and Exposed Flock

In the November 30 proposal, we tried to define the term *exposed animal* in a manner that would include all animals that were exposed to conditions that might result in the animal becoming infected with scrapie. We defined *exposed animal* in §§ 54.1 and 79.1 as ''Any animal that has been in the same flock at the same time within the previous 60 months as a scrapie-positive animal, excluding limited contacts. Any animal born in a flock after a scrapie-positive animal was born into that flock, if born before that flock completes the requirements of a flock plan.'' Our proposed definition of *flock* included ''All animals that are maintained on a single premises and all animals under common ownership or supervision on two or more premises with animal interchange between the premises.''

Several commenters were concerned over the effect of these definitions on shows and sales and asked whether all animals that attended a show or sale where a scrapie-positive animal was in attendance would be considered exposed animals, regardless of their degree of contact with the scrapie-positive animal. That was not our intention, and we have modified the definition of *exposed animal* to include animals that have exposure to scrapie while at shows or sales without

classifying all animals at a show or sale as exposed animals. We have done this by adding to the definition of *exposed animal* specific means of exposure that could cause a sheep or goat to contract scrapie and by revising the definition of *flock* to specifically exclude animals at shows and sales. These changes were based on research into the means of scrapie transmission and our knowledge of the manner in which sheep and goats are marketed and shown. We added the following language to the definition of *exposed animal:* ''Any animal that was commingled with a scrapie-positive female animal during or up to 30 days after she lambed, kidded, or aborted, or while a visible vaginal discharge was present, or that was commingled with any other scrapie-positive female animal for 24 hours or more, including during activities such as shows and sales or while in marketing channels.''

Commenters also suggested that we review the scientific basis for the timeframe requirements in the proposal. We reviewed the assumption that there is a particular timeframe, during which an animal might transmit scrapie, between the time it becomes infected and the time it dies from the disease or shows obvious symptoms and is destroyed. One of the places the proposal used this assumption is the proposed definition of exposed animal, which counted exposure if it occurred ''within the previous 60 months.''

We have reviewed research on this matter. One of the sources relied on for the proposal was Mission Field Trial data. The study monitored 653 sheep and goats that were exposed to the scrapie agent at birth, and 145 sheep and goats that were exposed post-weaning. Results showed that 91 percent of the sheep exposed at birth that died of scrapie died before the age of 54 months and 98 percent died at 67 months or less. For sheep exposed post-weaning 100 percent of those that died of scrapie died at an age of 73 months or more. These data suggest that animals diagnosed with scrapie at an age of 72 months or less were probably exposed at birth, which suggests that their flock of birth should be designated a source flock. Upon reexamining these findings we believe that the assumption that an infected animal has an effective timeframe for developing signs of scrapie for only 60 months, as implied by the proposed definition of *exposed animal,* is too conservative, since infected sheep might survive longer than this, particularly if the animals are exposed post-weaning. The results of the Mission Field Trial suggest that this timeframe should be removed. Therefore, we have removed this timeframe in the definition of *exposed animal.* As discussed below, we have changed a similar timeframe in the definition of *source flock* from 54 months to 72 months to be consistent with the data for animals exposed at birth.

Other commenters noted that the November 30 proposal discussed actions that were required for flocks exposed to scrapie, particularly with regard to post-exposure management and monitoring plans, but did not define *exposed flock.* We agree that such a definition would be useful and have added the following definition of *exposed flock* to §§ 54.1 and 79.1: ''Any flock in which a scrapie-positive animal was born or lambed. Any flock that currently contains a female high-risk, exposed, or suspect animal, or that once contained a female high-risk, exposed, or suspect animal that lambed in the flock and from which tissues were not submitted for official testing and found negative. A flock that has completed a post-exposure management and monitoring plan following the exposure will no longer be classified as an exposed flock.''

Definition of Flock

Comments on the definition of *flock* in §§ 54.1 and 79.1 noted that the proposed definition could be interpreted to consider separate groups of animals to be a single flock when they are temporarily placed on the same premises, even when this does not involve close contact or a significant risk of spreading scrapie. These commenters suggested the definition be revised to note that animals maintained temporarily on a premises for activities such as shows and sales or while in marketing channels are not a flock. We agree, and have made the requested change.

One commenter also indicated the definition of *flock* is overly restrictive in addressing when groups of animals on the same premises can be considered separate flocks. We agree that separate flocks can be kept in close proximity without risk of spreading scrapie if there is a physical barrier between the flocks. We are, therefore, adding the phrase ''or are separated by a solid wall through, over, or under which fluids cannot pass and through which contact cannot occur'' to this part of the definition.

Definition of Flock of Origin

Several commenters noted that the term *flock of origin* was used in the November 30 proposal without being defined. For scrapie control purposes, the important consideration for determining the flock of origin is to identify the flock(s) that are likely to harbor or spread scrapie as a result of an infected animal ''originating'' in the flock. In this sense, an infected animal originated in any flock where the animal gave birth, was bred, or was born. For clarity, we are adding a definition of *flock of origin* to §§ 54.1 and 79.1, to read as follows: ''The flock in which an animal most recently resided in which it either was born, gave birth, or was used for breeding purposes. The determination of an animal's flock of origin may be based either on the physical presence of the animal in the flock, the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records.''

Definition of Infected Flock

Several commenters stated that, in addition to designating as infected flocks the flocks of origin of scrapie-positive female animals, we should consider as infected any flock in which a scrapie-positive ewe lambed. We agree, and have changed the definition of infected flock in §§ 54.1 and 79.1 accordingly. The definition of *infected flock* has been changed to read: ''The flock of origin of a female animal that a State or APHIS representative has determined to be a scrapie-positive animal; or any flock in which a State or APHIS representative has determined that a scrapie-positive female animal has resided, unless an epidemiologic investigation conducted by a State or APHIS representative shows that the animal did not lamb in the flock. A flock will no longer be considered an infected flock after it has completed the requirements of a flock plan.''

Definition of Limited Contacts

One commenter suggested that the proposed definition of *limited contacts* in §§ 54.1 and 79.1, intended to define contacts that do not present a significant risk of spreading scrapie, was overly strict and would unnecessarily restrict the way in which animals are shown and transported. The proposed definition stated that a contact was not limited if it occurred within 60 days after lambing or kidding. We have reduced this exclusion to 30 days, since tissues and fluids associated with lambing are unlikely to be prevalent beyond this 30-day period. However, we have also added that the contact is not limited if it is with an animal that has aborted within the past 30 days or that had a vaginal discharge at the time of the contact, since infectious materials from abortions or discharges may

contaminate nearby animals. We are changing the text to read ''Limited contacts do not include any contact, incidental or otherwise, with a female animal during or up to 30 days after she lambed, kidded, or aborted or when there is any visible vaginal discharge at the time of the contact.'' Readers interested in this issue should also note that the changes in the definitions of *flock* and *exposed animal* reduce the effect of the *limited contacts* definition on the transport and showing of animals.

Some commenters stated that they were confused by the language in the definition of *limited contacts* that said contact was not limited if it involved ''uninhibited contact while sharing a section of a transport vehicle, or transportation to other flocks for breeding.'' The first restriction on sharing a section of a transport vehicle appears to make the second restriction redundant. For clarity, we have changed the second restriction to ''residing in other flocks for breeding or other purposes.''

Definition of Official Eartag

Several comments indicated confusion regarding the relationship of the terms *official eartag* and *premises identification* and questioned whether the proposal was consistent with existing national identification standards. We agree that the discussion in the proposal was unclear, and we are clarifying that the National Uniform Eartagging system or a combination of premises and individual animal identification numbers may be used. We have added a definition of *official eartag* to § 79.1 that reads ''An identification eartag approved by APHIS as being sufficiently tamper-resistant for the intended use and providing unique identification for each animal. An official eartag may conform to the alphanumeric National Uniform Eartagging system or another system approved by APHIS, or it may bear a premises identification number that either contains or is used in conjunction with the producer's livestock production numbering system to provide a unique identification number.''

Definition of Official Identification

We used the term *official identification* in the proposed rule, but commenters noted that it was undefined. We are adding a definition of *official identification* to § 79.1 for clarity. The definition reads as follows: ''Identification mark or device approved by APHIS for use in the Scrapie Eradication Program. Examples are listed in § 79.2(a)(2).''

Definition of Premises Identification

One commenter requested that ear notches that are officially registered be allowed in addition to brands, and another suggested that temporary paint brands (where owners of animals that will be temporarily commingled each mark their own animals with a strips of a particular paint color, to facilitate later separation of the animals) were adequate premises identification for animals that move without changing ownership. We agree and are revising the proposed definition of *premises identification* in § 79.1 to allow for the use of ear notches. We are changing the definition to read, ''An APHIS approved eartag, backtag, or legible tattoo bearing the premises identification number, consisting of the State postal abbreviation or code followed by a unique alphanumeric number or name, assigned by a State or Federal animal health official to the premises of the flock of origin for the sheep or goats that, in the judgment of the State animal health official or area veterinarian in charge, is epidemiologically distinct from other premises, or a permanent legible brand or ear notch pattern registered with an official brand registry. Premises identification may be used when official individual animal identification is required, if the premises identification method either includes a unique animal number or is used in conjunction with the producer's livestock production numbering system to provide a unique identification number and where, if brands or ear notches are used, the animals are accompanied by an official brand inspection certificate. Clearly visible and/or legible paint brands may be used on animals moving directly to slaughter and on animals moving for grazing or other management purposes without change in ownership.''

Definition of Separate Contemporary Lambing Groups

Several commenters suggested that we review other APHIS animal disease eradication programs to improve implementation of the scrapie program. This review showed that cleaning and disinfection for other disease programs are carried out under supervision. We agree that supervision is necessary, and have changed the definition of *separate contemporary lambing groups* in §§ 54.1 and 79.1 accordingly, to require supervision of cleaning and disinfection by an APHIS or State representative or an accredited veterinarian, and to require records documenting animal grouping and documenting cleaning and disinfection.

We have also clarified the proposed definition, which stated that guidelines for cleaning and disinfection could be found in the Scrapie Flock Certification Program standards. We have moved requirements for cleaning and disinfection from the Scrapie Flock Certification Program standards into § 54.7(e) of the regulations. Guidelines and examples regarding how to apply these requirements may now be found in both the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules.

Definition of Source Flock

Several commenters suggested that the definition of *source flock* in §§ 54.1 and 79.1 should be qualified by stating how the determination that an animal was born in a flock should be made. We agree and have changed the definition to state that the determination that an animal was born in a flock will be based on such information as the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records, to show that a scrapie-positive animal originated from the flock, combined with the absence of any records indicating that the animal was purchased from outside and added to the flock.

One commenter recommended that only official identification be accepted for tracebacks. We disagree, because there are often cases where registry records or bills of sale are adequate for positive identification of an animal, and sometimes these documents are available when official identification is not. Commenters also suggested that DNA comparison be used for positive identification of traced animals. We agree that an owner should be allowed to request verification of a traced animal's identity through DNA comparison, at the owner's expense, when the conditions exist to make such verification possible and reliable. These conditions exist in those cases where DNA has been archived at an approved genotyping laboratory, or if DNA collection and storage are required for breed registration and the breed registration has appropriate safeguards in place to ensure the integrity of the banking process, and when adequate records and identification have been maintained by the owner and the repository. We have changed the definition of *source flock* accordingly.

As discussed above regarding the definition of *exposed animal*, commenters suggested we reexamine the scientific basis of the timeframes in the proposed rule. The proposal assumed that animals exposed at birth would die by the age of 54 months. We reexamined the data and concluded that it shows that while almost all animals that contract scrapie at birth die at an age of 72 months or less, animals that contract scrapie post-weaning do not die from it until at least the age of 73 months. Weaning normally occurs 80–90 days after birth. Therefore, if an animal is diagnosed with scrapie at an age of 73 months or more, it did not contract scrapie at birth, and its flock of birth should not be considered a source flock based on the diagnosis. Therefore, we have amended the definition of *source flock* to state that it includes flocks where at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less.

As amended according to the comments discussed above, the definition of source flock in this final rule now reads as follows: ''A flock in which a State or APHIS representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less. The determination that an animal was born in a flock will be based on such information as the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records, to show that a scrapie-positive animal was born in the flock. If DNA from the animal was previously collected by an accredited veterinarian and stored at an approved genotyping laboratory, or if DNA collection and storage are required for breed registration and the breed registration has appropriate safeguards in place to ensure the integrity of the banking process, the owner may request verification of the animal's identity based on DNA comparison if adequate records and identification have been maintained by the owner and the repository to show that the archived DNA is that of the animal that has been traced to the flock. The owner will be responsible for all costs for the DNA comparison. A flock will no longer be a source flock after it has completed the requirements of a flock plan.''

Definition of High-Risk Animal

Commenters suggested two specific changes to the definition of *high-risk animal*. The first suggestion was that only sexually intact animals should be considered high-risk, since other animals are extremely unlikely to spread scrapie. The second suggestion was that an animal born into the same flock in which a scrapie-positive animal was born should not be considered high-risk if the animal was born after the flock completes the requirements of a flock plan, designed to remove the risk of spreading scrapie.

We agree, and have added language to the definition of high-risk animal in §§ 54.1 and 79.1 to accomplish these changes. We have also made changes to this definition in response to comments suggesting that the regulations incorporate the most recent scientific research on animal genetics and resistance to scrapie, discussed below. As revised, the definition of *high-risk animal* reads as follows: ''A sexually intact animal, excluding male sheep that have tested RR at codon 171 and AA at codon 136 using an official genotype test, that is:

(1) The progeny of a scrapie-positive dam; or

(2) Born in the same flock during the same lambing season as progeny of a scrapie-positive dam, unless the progeny of the scrapie-positive dam are from separate contemporary lambing groups; or

(3) Born in the same flock during the same lambing season that a scrapie-positive animal was born, or during any subsequent lambing season, if born before that flock completes the requirements of a flock plan; or

(4) An exposed female sheep that has not tested QR, HR, or RR at codon 171 using an official genotype test.''

Definition of Suspect Animal

Some commenters indicated that the movement restrictions in proposed § 79.3 were overly complex. In response, we have combined the categories of *suspect animal* and *affected animal* into one category. We have done this by adding the following to the definition of *suspect animal* in §§ 54.1 and 79.1: ''A sheep or goat that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on a live-animal screening test or any other test is a suspect animal, unless it is designated a scrapie-positive animal.'' This removes the need to use the term affected animal, which essentially applied to animals that tested positive to a live-animal screening test. In the November 30 proposal, the same movement restrictions applied to suspect animals and affected animals, so this change will not alter movement restrictions. This change reduces the complexity of the rule and removes the need for States to change their regulations to separately address affected animals. It also closes a loophole that would have allowed sheep and goat owners to use unofficial tests without any risk that positive results would result in restrictions on the movement of the animals. Under the new definition, animals that test positive to unofficial tests would be designated suspect animals. This designation may be removed in accordance with § 79.4.

New Definitions of Commercial Sheep or Goat, Low-Risk Goat, and Low-Risk Commercial Sheep

Several commenters suggested that lesser interstate movement restrictions were appropriate for animals that are raised primarily for production and that are of a breed type or cross that has a low prevalence of scrapie. These commenters suggested that whitefaced animals from commercial flocks in States where scrapie has not been reported in whitefaced animals do not represent a substantial scrapie risk.

We agree, and have added two new definitions to § 79.1 that are used in the chart of interstate movement restrictions in § 79.3, *commercial sheep or goat* and *blackfaced sheep*. A commercial sheep or goat is any animal from a flock from which animals are moved only either directly to slaughter or through slaughter channels to slaughter or any animal that is raised only for meat or fiber production and that is not registered with a sheep or goat registry or used for exhibition. A blackfaced sheep is any purebred suffolk, hampshire, shropshire or cross thereof, any non-purebred sheep known to have suffolk, hampshire, or shropshire ancestors, and any non-purebred sheep of unknown ancestry with a black face, except commercial hair sheep. We are defining blackfaced sheep in the regulations, rather than whitefaced sheep and whitefaced crossbreeds, because blackfaced sheep are the higher risk category and defining this term makes it easier to address risk in the requirements and exemptions contained in the regulations.

Several commenters suggested that we should simplify the chart of interstate movement restrictions in § 79.3 and provide lesser restrictions for certain low-risk goats and commercial sheep. We agree, and have done so by adding definitions of low-risk goat and low-risk commercial sheep and then referring to those defined terms in the chart. We are defining *low-risk goat* in § 79.1 as a goat that is not a scrapie-positive, suspect, high-risk, or exposed animal, that has not been commingled with sheep, and

that meets certain other requirements that indicate the goat has a low risk of spreading scrapie. These other requirements are that the goat must be from:

(1) A State in which scrapie has not been identified in a goat during the previous 10 years;

(2) A State in which scrapie has been identified in a goat during the previous 10 years, but the scrapie-positive goat was not born in the State and resided in the State for less than 72 months and did not kid while in the State; or,

(3) A State in which scrapie has been identified in a goat during the previous 10 years, and the scrapie-positive goat was commingled with sheep, but flock records allowed a complete epidemiologic investigation to be completed and all resulting infected, source, and exposed goat herds have completed flock plans and are in compliance with post-exposure monitoring plans.

Similarly, we are defining *low-risk commercial sheep* in § 79.1 in a manner that excludes blackfaced sheep, animals that are known to be at risk of having scrapie or having been exposed to scrapie, and animals that are not sufficiently identified to determine their flock of origin. We define *low-risk commercial sheep* as ''Commercial whitefaced, whitefaced cross, or commercial hair sheep from a flock with no known risk factors for scrapie, including any exposure to female blackfaced sheep, that are identified with a permanent brand or earnotch pattern registered with an official brand registry and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected, source, or exposed flock. The term brand includes official brand registry brands on eartags in those States whose brand law or regulation recognizes brands placed on eartags as official brands. Low-risk commercial sheep may only exist in a State where scrapie has not been diagnosed in the previous 10 years in commercial whitefaced, whitefaced cross, or commercial hair sheep that were not commingled with female blackfaced sheep.''

Additional New Definitions

We are also adding new definitions for the following terms: *commercial hair sheep, ownership brand, official test, official genotype test, approved laboratory, unofficial test, direct movement to slaughter*, and *flock sire*.

In order to properly separate risk categories it is necessary to make distinctions between hair sheep and other types of sheep, making it necessary to define commercial hair sheep. We are adding a definition of *commercial hair sheep* to § 79.1 to read ''Any commercial sheep with hair rather than wool that is either a full-blooded hair sheep or that resulted from the cross of a hair sheep with a whitefaced wool sheep.''

In the proposal ownership brands were not defined. We have added a definition of *ownership brand* to § 79.1, using the definition commonly accepted in livestock industries: ''A unique permanent brand or earnotch pattern applied to an animal that indicates ownership by a particular person when the brand pattern is registered with a State's official brand recording agency.''

Several commenters recommended that there be greater flexibility in the handling of infected and source flocks. We agree. In order to organize changes to provide greater flexibility it is necessary to define a term that includes all approved tests and that indicates where such tests must be conducted in order to be used for this purpose. We are adding the following definition of *official test* to §§ 54.1 and 79.1: ''Any test for the diagnosis of scrapie in a live or dead animal that is approved by the Administrator for that use and conducted either at an approved laboratory or at the National Veterinary Services Laboratories.'' Commenters also stated that if the rule distinguishes the risk level of animals based on their genotype, it should define a means for approving acceptable methods of genotype testing. We agree, and are adding the following definition of *official genotype test* to §§ 54.1 and 79.1: ''Any test to determine the genotype of a live or dead animal that is conducted at either an approved laboratory or at the National Veterinary Services Laboratories, when the animal is officially identified and the samples used for the test are collected and shipped to the laboratory by either an accredited veterinarian or a State or APHIS representative.'' We are also adding a complementary definition of *approved laboratory* to §§ 54.1 and 79.1: ''A laboratory approved by the Administrator in accordance with § 54.11 to conduct one or more scrapie tests, or genotype tests, on one or more tissues.''

To clearly distinguish official tests from other tests that owners may conduct for their own purposes, we are also adding the following definition of *unofficial test* to §§ 54.1 and 79.1: ''Any test for the diagnosis of scrapie or for the detection of the proteinase resistant protein associated with scrapie in a live or dead animal that either has not been approved by the Administrator or that was not conducted at an approved laboratory or at the National Veterinary Services Laboratories.''

One commenter stated that, in some circumstances, the proposal would require that animals be moved directly to slaughter, but did not define what this means. We agree that clarification would be useful, and we have added to § 79.1 a definition of *direct movement to slaughter* that reads ''Transported to a facility for slaughter, without stops or unloading except for feeding and watering during which the animals are not commingled with any other animals.''

We are also adding to § 54.1 the following definition of *flock sire*, a type of animal that is eligible for a premium indemnity under the rule: ''A sexually intact male animal that has ever been used for breeding in a flock.''

Destruction by Slaughter of High-Risk, Exposed, and Scrapie-Positive Animals

Several commenters indicated that high-risk and exposed animals and animals that test positive to a live-animal screening test should be permitted to move to slaughter because there is no known human health risk from scrapie and Food and Drug Administration ((FDA) regulations provide adequate protection against inclusion of the scrapie agent in ruminant feed. These commenters argued that sending these animals to slaughter is usually more economical and less difficult than arranging other means of disposal.

We agree that there is no evidence that scrapie is a human health risk and significant evidence that it is not a human health risk. The World Health Organization recommendation calls for the exclusion of small ruminants showing signs of a TSE from slaughter to address a theoretical risk. In keeping with this recommendation small ruminants with clinical evidence of central nervous system disease are condemned by the Food Safety Inspection Service (FSIS) on ante-mortem inspection. Excluding test-positive animals goes one step farther to exclude the scrapie agent from the food and feed chains. We believe that excluding from slaughter animals that test positive to a live-animal test is warranted to maintain consumer confidence and minimize the risk of the scrapie agent entering the human and animal food chains.

We agree with the commenters that most scrapie-exposed and high-risk animals do not, in fact, contain the scrapie agent. Under the proposed rule, high-risk animals would be indemnified but prohibited from going to slaughter

while scrapie-exposed animals would not be indemnified and could be slaughtered. Since both types of animals share the same, low risk of spreading scrapie, we have now decided that it is not consistent to keep one set of these animals from slaughter but allow the other set to go to slaughter. Also, owners of non-indemnified scrapie-exposed and high-risk animals can recoup much of the animals' economic value by sending the animals to slaughter, although such animals usually fetch a discounted price from slaughter plants. Keeping these animals from slaughter would also present additional environmental problems related to finding enough landfills and incinerator capacity to deal with the large number of exposed and high-risk animals. Therefore, we are changing the definition of *destroyed* in § 54.1 to allow indemnified high-risk animals to move to slaughter; however, we continue to prohibit movement to slaughter of animals that test positive to a live-animal test in order to minimize the amount of scrapie agent in the food chain, since these animals are known to contain PrP-sc, which has been linked to the presence of the scrapie agent. We are also making corresponding changes in § 54.7, ''Procedures for destruction of animals,'' to allow indemnified animals (except for scrapie-positive or suspect animals) to move to slaughter, or to a quarantined research facility or another location for destruction, if the movement is approved by APHIS. Note that this change does not affect the FDA regulations that continue to prohibit the inclusion of animal protein derived from mammalian tissues in ruminant feed.

We are also amending the definition of *destroyed* to include movement to a quarantined research facility when such movement is authorized by the Administrator. The scrapie program has always authorized some animals that would otherwise have to be euthanized to be moved for research purposes, and this change to the definition acknowledges that such movements satisfy the regulatory requirement to destroy an animal.

Cooperative Agreements and Memoranda of Understanding With States

The November 30 proposal did not propose regulatory requirements for cooperative agreements and memoranda of understanding, but it did solicit comments on whether it would be desirable to require States to sign a compliance agreement with APHIS describing State scrapie program operations, cooperative activities with APHIS, and planning and financing details for these activities. Several commenters suggested that the final rule should contain a section authorizing and describing such agreements. We agree, and have added a new § 54.2 describing cooperative agreements and memoranda of understanding for activities under both the Scrapie Eradication Program and the Scrapie Flock Certification Program. Based on suggestions from commenters, this section states that such agreements will describe the respective roles of APHIS and State personnel in implementing the Scrapie Eradication Program and the Scrapie Flock Certification Program. Each agreement may specify the financial, material, and personnel resources to be committed to these programs and other scrapie control measures by APHIS and the State and assign specific activities related to the control of scrapie within a State to APHIS or State personnel. The agreements may also establish schedules for APHIS representatives or State representatives to visit flocks, establish procedures for maintaining and sharing program records, and specify other responsibilities of State representatives and APHIS representatives in support of the Scrapie Eradication Program and the Scrapie Flock Certification Program.

Indemnity Values and Application for Indemnity

Numerous commenters indicated that the indemnity value set for sheep was too low and should be based on market value. The indemnity payments proposed were $150 for registered animals and $50 for other animals and were significantly lower than the average national sale price of sheep. After evaluating comments on this issue, we agree that an indemnity that approximates fair market value would increase compliance and assist scrapie control. We have considered several methods for establishing market value and have decided to rely, as other indemnity programs have done, on the average sale price information published by the U.S. Department of Agriculture's Agricultural Marketing Service (AMS). The indemnity value will be set weekly by APHIS based on the ewe and lamb market prices reported by AMS and will be posted on the APHIS scrapie web page. We are field testing this market based method by using it to purchase animals for diagnostic purposes.

Specifically, we are changing § 54.6, which sets the amounts of indemnity payments, to state that indemnity for sheep will be set based on the following AMS price reports: The weekly weighted average Choice/Prime slaughter lamb prices at Greeley, CO; the weekly weighted average Utility slaughter ewe prices at San Angelo, TX; the monthly weighted average commercial western ewe lamb replacement price per head; the monthly weighted average commercial western yearling ewe replacement price per head; the monthly weighted average commercial western running age ewe price per head; and the monthly weighted average commercial western aged ewe price per head.. If pricing information is unavailable from these markets during a given week or month, or if the numbers sold are too low to give an accurate market value, the preceding week or month's value will be used. The AMS reports from the most recent week or month prior to the date APHIS first offers to pay an owner indemnity shall be used to calculate the indemnity for that owner's sheep.

In contrast to indemnities for sheep, indemnities for goats will be calculated based directly on the value of the goat as indicated by the producer's purchase records and sales records for the preceding 12 to 24 months, not to exceed the maximum indemnity allowed for sheep. We are not establishing a complicated, market price-based formula for calculating indemnities for goats because based on program experience there will be extremely few goats eligible for indemnity. Program experience also suggests that sales and purchase records of goats are a good guide to the fair market value of goats, and it will be cost-effective to calculate the indemnity individually in each case from these records.

The amount of indemnities for sheep will be calculated as follows: For sheep under 1 year of age, the indemnity will equal the weekly weighted average Choice/Prime slaughter lamb price per pound times 50 lbs, or times the actual weight, whichever is more. (The default weight of 50 lbs was selected to fairly compensate owners whose sheep were identified as eligible for indemnity while very young, before they achieved significant weight gain.) However, for ewe lambs under 1 year of age, the indemnity will equal the monthly weighted average commercial western ewe lamb replacement price per head, if this price is higher, since ewe lambs might have a greater potential value as breeding animals. For sexually intact sheep 8 years of age or older and castrated animals 1 year of age or older, the basic indemnity shall equal the weekly weighted average Utility slaughter ewe price per pound times 150, based on an average weight of 150 lbs. For mature sexually intact sheep at

least 1 year of age and under 2 years of age, the indemnity will equal the greater of the monthly weighted average commercial western yearling ewe replacement price per head, or the weekly weighted average Utility slaughter ewe price per pound times 150, based on an average weight of 150 lbs. For mature sexually intact sheep at least 2 years of age and under 6 years of age, the basic indemnity will equal the greater of the monthly weighted average commercial western running age ewe price per head, or the weekly weighted average Utility slaughter ewe price per pound times 150, based on an average weight of 150 lbs. For mature sexually intact sheep at least 6 years of age and under 8 years of age, the basic indemnity will equal the greater of the monthly weighted average commercial western aged ewe price per head, or the weekly weighted average weekly Utility slaughter ewe price per pound times 150, based on an average weight of 150 lbs. If records and identification are inadequate to determine the actual age of animals, an APHIS or State representative will count all sexually intact animals that are apparently under 1 year of age, and those that are apparently at least 1 and under 2 years of age, based on examination of their teeth, and the indemnity for these animals will be calculated. The total number of these animals will be subtracted from the total number of sexually intact animals in the group to be indemnified, and indemnity for the remainder will be calculated based on the assumption that the remainder of the flock is 80 percent aged 2 to 6 years and 20 percent aged 6 to 8 years. This assumed age distribution reflects the fact that animals tend to die or be culled as they get older. Most ewes in commercial flocks are eliminated between 6 to 8 years of age.

As many commenters requested, we will increase the indemnity amounts for registered animals to partially compensate owners for the greater value of these animals. We will add a premium to the basic indemnity for each registered animal equal to $100 for each registered animal under 1 year of age, $200 for each registered animal at least 1 year of age and under 4 years of age, and $100 for each registered animal at least 4 years of age and under 8 years of age. In addition to this, we will add a premium of $50 to the indemnity for each flock sire. Also, any animal that is not registered at the time indemnity is first offered, but is eligible to be registered, will receive the registered animal premium reduced by $50. The owner must provide adequate records to qualify for these premiums.

As a result of the change in the definition of *destroyed* to allow high-risk animals eligible for indemnity to be destroyed by slaughter, it was necessary to address the effect of moneys received from slaughter plants on the amount of indemnity received by owners of animals disposed of by being sent to slaughter. We are changing § 54.6 to provide that, for animals destroyed by slaughter, the owner will retain the salvage value (the amount paid by a slaughter plant for the animal) of animals. If the salvage value, less shipping costs, is less than the slaughter price used to calculate indemnity, APHIS will pay the owner the difference. APHIS will also indemnify the owner in the amount of any productivity, registered animal, or flock sire premiums for which the animal qualifies.

We anticipate that owners will wish to have recourse if they believe that the average weights used to calculate indemnities do not fairly represent the weights of animals in their flock. We have revised § 54.6 to allow an owner who disagrees with the average weight estimate to have the sheep weighed at a public scale at his own expense (the usual average weighing fee is less than $1 per animal, though there will be additional expense if the owner must transport them to be weighed). In such a case, the owner will be paid based on the actual weight times the AMS weekly average price.

We have also clarified that indemnity will be paid to an owner only for animals actually in a flock at the time indemnity is first offered. Animals removed from the flock as part of a post-exposure management and monitoring plan will be paid indemnity based on the AMS average prices at the time an APHIS representative designates the animals for removal.

We received several comments concerning § 54.4, the section describing how to submit an application for indemnity. One comment noted that the proposal stated that normally a State or APHIS representative would initiate the application for a flock that is already under a State quarantine. This comment stated that some States do not actually call the movement restrictions they place on flocks a ''quarantine,'' and the regulations should not use this term here to avoid confusion. We agree, and have changed ''State quarantine'' to ''State movement restrictions.'' In such cases, the flock owner will confirm information about the flock's eligibility for indemnity that is contained in the application submitted by the APHIS or State representative. Another comment noted that under the proposal, flock owners could choose to apply directly for indemnity, rather than having a State or APHIS representative make the application, in all cases, except for flocks that were under State quarantines (movement restrictions). The commenter did not see the purpose of excluding flocks under State movement restrictions from applying directly for indemnity. Neither do we, and we have removed this restriction.

Another commenter noted that proposed § 54.4(a)(5) required registration papers for any registered animals in a flock to accompany the application for indemnity. This commenter stated that the language did not make it clear that owners may apply for indemnity for unregistered animals without registration papers. To clarify this, we have added the phrase ''registration papers are not required for the payment of indemnity for animals that are not registered'' to this paragraph.

Certification by Owners Receiving Indemnity

Proposed § 54.5 required owners receiving indemnity to sign an agreement with APHIS certifying that the owner would cooperate with certain conditions. One of these conditions was to allow an APHIS representative, upon request, to review bills of sale and other records of the flock. One commenter suggested that this agreement should also allow State representatives to review these records. We agree, and have made that change.

The proposed agreement would also require flock owners that maintain a flock after receiving indemnity to maintain that flock under a post-exposure management and monitoring plan. One commenter suggested that the agreement should specify how long the flock would have to be subject to the post-exposure management and monitoring plan. We agree, and have added ''for 5 years'' to this requirement. Five years of monitoring is consistent with normal epidemiological practice and guidance in the Scrapie Flock Certification Program standards.

We have also added to the agreement, based on another comment, that the owner must allow any animal for which indemnity is paid to be removed to a U.S. Department of Agriculture facility or a quarantined research facility, slaughtered, or euthanized and necropsied and tissues removed for diagnostic or other purposes. This change will ensure that APHIS has access to animals when they are needed

for testing to further our knowledge of scrapie transmission patterns.

Identification of Sheep and Goats in Interstate Commerce

Several commenters suggested changes to proposed § 79.2(a)(1), which specified where and when identification should be attached to animals that must be identified under the regulations. The proposal stated that animals must be identified at whichever of the following occurs first: The point of first commingling of the sheep or goats in interstate commerce with sheep or goats from any other source; upon unloading of the sheep or goats in interstate commerce at any livestock market; upon transfer of ownership of the sheep or goats in interstate commerce; or upon arrival of the sheep or goats in interstate commerce at their final destination.

Some commenters stated that animals should always be identified before being moved from their flock of origin, rather than at any later stage of movement, because this would minimize chances for errors in identification and would eliminate the need for markets, slaughter plants, or other businesses to apply identification. We agree in part and have changed the wording in § 79.2(a)(1) to require the owner of the flock of origin or his agent to identify the animals. This does not preclude the owner of the flock of origin from contracting with a livestock market, slaughter plant, or other person to act as his agent for the purpose of applying official identification at the first point in movement where official identification is required. In response to comments suggesting that animals be identified to their flock of birth, not just their flock of origin, we are requiring identification to the flock of birth for animals born after January 1, 2002. The delay in this requirement's effective date will give owners an opportunity to prepare for the new requirement. To further mitigate the impact on owners and markets, we are allowing animals moving interstate *directly to slaughter* to move without flock-of-birth identification until June 1, 2003.

We have also amended § 79.2(a)(1) to note the fact that the regulations, in § 79.6(a)(10)(i), allow Consistent States to exempt certain low-risk animals in intrastate commerce from being identified to their flock of origin or birth. It would be impractical and unnecessary to require that these animals be identified to their flock of origin or birth in order to move interstate, so we have amended our identification requirements for animals in interstate commerce to state that animals that Consistent States have exempted from flock of origin identification in intrastate commerce in accordance with § 79.6(a)(10)(i) may be moved interstate with only individual animal identification traceable to the State of origin and to the owner of the animals.

We have also clarified that if an owner fails to arrange required official identification for his animals, other persons engaged in moving those animals (shippers, markets, slaughter plants, etc.) may not move the animals unless the required identification is accomplished. It would have undesirable effects on compliance with the regulations if other persons engaging in interstate commerce were free to move animals that an owner failed to identify. In some cases, this requirement may result in shippers, markets, or other parties applying official identification to animals, using information from owners statements or bills of sale, in order to legally move the animals in interstate commerce.

Commenters also suggested that identification requirements be kept to a minimum. In response to this we have identified one case where the proposed identification requirement appears to be unnecessary. The proposal required individual identification of animals whose final destination was a slaughter plant. The proposal also allowed those animals to be moved interstate without such identification if it was applied after the animals arrived at the slaughter plant. Since individual identification would be required at slaughter plants primarily to allow APHIS to conduct slaughter sampling and trace back positive animals, we believe that this identification would serve no purpose on those days when APHIS does not conduct slaughter sampling at a plant, and we have removed this individual identification requirement in such cases.

A commenter noted that the requirements for Consistent State status mean that States will require identification even when animals change ownership within a State. The commenter also noted that the State requirement would facilitate identifying animals moving interstate under the Federal regulations. We agree. No change is necessary in response to this comment since § 79.2(a)(1)(iv) requires identification ''upon transfer of ownership of the sheep or goats in interstate commerce.''

In accordance with the above comments, we have revised § 79.2(a)(1) to read as follows:

(1) The sheep or goat must be identified to its flock of origin and, for an animal born after January 1, 2002, to its flock of birth, by the owner of the flock or his or her agent; at whichever of the following points in commerce comes first, Except that; animals born after January 1, 2002, may be moved interstate direct to slaughter without identification to flock of birth until June 1, 2003, and animals that cannot be identified to their flock of origin because Consistent States have exempted them from flock of origin identification in intrastate commerce in accordance with § 79.6(a)(10)(i) may be moved interstate with only individual animal identification traceable to the State of origin and to the owner of the animals at the time they were so identified:

(i) The point of first commingling of the sheep or goats in interstate commerce with sheep or goats from any other flock of origin;

(ii) Upon unloading of the sheep or goats in interstate commerce at any livestock market, except a market described in paragraph (a)(1)(iii) of this section;

(iii) Upon leaving a livestock market that has been approved in accordance with this chapter to handle sheep and goats in interstate commerce and that has agreed to act as an agent for the owner to apply official identification to the animals. In such cases the animals must be:

(A) Moved to the market and maintained until officially identified in distinguishable groups identifiable to their flocks of origin and when required their flock of birth by means of partitions or other such maintenance; and,

(B) Accompanied by an owner statement that contains the information needed to officially identify the animals to their flock of origin and, when required, their flock of birth;

(iv) Upon transfer of ownership of the sheep or goats in interstate commerce;

(v) In the case of animals shipped directly to slaughter at a slaughter plant that has agreed to act as an agent for the owner to apply official identification to the animals, upon arrival of the sheep or goats in interstate commerce at the slaughter plant. In such cases the animals must be:

(A) Moved to the slaughter plant and maintained until officially identified in distinguishable groups identifiable to their flocks of origin and when required their flock of birth by means of partitions or other such maintenance; and,

(B) Accompanied by an owner statement that contains the information needed to officially identify the animals to their flock of origin and, when required, their flock of birth. If the slaughter plant has agreed to allow APHIS to conduct slaughter sampling, animals need not be identified if they arrive at the plant on days that an APHIS designated sampler is not available at the plant to collect samples; or

(vi) Prior to moving a sheep or goat across a State line, unless the animals are moving to an approved livestock market in accordance with (a)(1)(iii) of this section or to an approved slaughter plant in accordance with (a)(1)(v) of this section.

Numerous commenters requested that we acknowledge that some forms of premises identification could satisfy the

proposed requirement for identification of animals moving interstate. It is in some cases less expensive and troublesome for owners and persons selling and buying animals to apply premises identifications to the animals, and to maintain records indicating which premises animals came from, than to maintain records of a unique identifying number for each animal when a group of animals is moved interstate.

We agree that we can make some changes to the individual animal identification requirements in proposed § 79.2 to make the process less burdensome. However, the identification must be sufficient to allow traceback of individual animals at any point in interstate commerce or else the disease control purpose of the identification suffers. To address the concerns of commenters to the extent possible, we are adding provisions to § 79.2 that will allow interstate movement of animals marked with a premises identification eartag or backtag that bears a unique number associated with the animal to which the tag is applied. Eartags approved for use in the Scrapie Flock Certification Program (SFCP) are already approved for this use, and other eartags and backtags may be approved by APHIS.

Specifically, we are changing § 79.2(a)(2), which identifies acceptable means of identification, by revising paragraphs (ii) and (iii), which refer to eartags and backtags, respectively.

Paragraph (ii) in the proposal read: ''Official eartags, including tags approved for use in the SFCP, when used on any sheep or goat.'' We are changing paragraph (ii) to read: ''Official eartags, including tags approved for use in the SFCP or APHIS-approved premises identification number eartags when combined with a unique animal identification number.''

Paragraph (iii) in the proposal read: ''United States Department of Agriculture backtags, when used on sheep or goats moving to slaughter.'' We are changing paragraph (iii) to read: ''United States Department of Agriculture backtags or official premises identification backtags that include a unique animal identification number, when used on sheep or goats moving directly to slaughter and when applied within 3 inches of the poll on the dorsal surface of the head or neck.'' This change is based on comments that suggested that premises backtags that include a unique animal identification number are suitable for individual animal identification, and that suggested a standard location on the head or neck to make it easy to collect the tag at slaughter.

Comments on proposed § 79.2(b), which dealt with how serial numbers and other codes for official identification would be issued, suggested that APHIS provide more detail on how these codes would be assigned by USDA to State officials and other intermediaries who could ultimately assign them for use by particular flocks. These comments suggested that it would be efficient to allow various animal health personnel, such as 4–H leaders, to be assigned blocks of codes that they could reassign to flocks. The comments stated that this means of assigning codes would be convenient for flock owners and would be reliable as long as USDA had initial control of the code assignments and subsequent assignments were identified to the premises on which the codes are used in a USDA database.

We agree, and have added the following language to § 79.2(b): ''The official responsible for issuing eartags in a State may assign serial numbers of official eartags to other responsible persons, such as 4–H leaders, if the State animal health official and the area veterinarian in charge agree that such assignments will improve scrapie control and eradication within the State. Persons assigned serial numbers may either directly apply eartags to animals, or may reassign eartag numbers to producers. If these persons reassign eartag numbers, they must maintain appropriate records that permit traceback of animals to their flock of origin, or flock of birth when required. Premises identification eartag, backtag, and tattoo numbers (series of alphanumeric USDA tags and backtags may be assigned as premises identification if they are linked to the premises in the National Scrapie Database) will be assigned to animal owners by the State animal health official or the area veterinarian in charge, whoever is responsible for assigning premises codes in that State.''

Proposed § 79.2(c) provided that, when animals move interstate, the buyers, sellers, and transporters would all have to keep records containing all serial numbers and other approved means of identification appearing on each sheep or goat. In this final rule, these requirements have been changed and moved to § 79.2(d). This paragraph now provides that, when the animals are identified to the premises of the flock of origin, the records will have to show the premises identification, which will be the same for all animals from a premises, rather than the unique identification number associated with each animal. The eartag or backtag on each animal will have a unique identification number, which APHIS can use, if necessary, in combination with the flock owner's records to conduct an epidemiologic investigation. We have also amended § 79.5, ''Issuance of Certificates,'' to note that for movements where premises identification instead of individual animal identification is allowed, the certificate will record the premises identification number rather than individual animal identification numbers.

Chart of General Restrictions

Comments have led us to substantially revise the chart in § 79.3, which contains restrictions and identification requirements for sheep and goats moved interstate. Many commenters suggested that the chart in this section should take more note of the fact that sexually intact female animals present an inherently higher risk of spreading scrapie than neutered animals, since lambing and kidding have been identified as chief opportunities for the spread of scrapie.

When consolidated, these comments suggested that the chart should be organized to provide different levels of identification and restriction for six different groups of animals. The six groups represent six different risk levels for spreading scrapie, ranging from high risk to low risk. The groups are as follows, beginning with the highest risk group:

- Scrapie-positive, suspect, or high-risk animals.
- Animals from an infected or source flock that are not scrapie-positive, suspect, or high-risk animals.
- Exposed female animals that are sexually intact and are not scrapie-positive, suspect, or high-risk animals or from an infected or source flock.
- Sexually intact female animals that are not scrapie-positive, suspect, high-risk, or exposed animals or animals from an infected or source flock.
- Commercial whitefaced sheep, commercial hair sheep, and commercial goats when they are in low-risk flocks.
- Castrated or spayed animals that are not scrapie-positive or suspect animals and are not from an infected or source flock.

We have reorganized the chart based on these major groups of animals, although the chart actually establishes more categories using risk-based subdivisions of these groups. The restrictions and identification requirements this final rule requires for the various categories of animals are similar to the requirements in the chart

in the proposal, and range from prohibition of movement for the first group through no requirements for some members of the last group.

Like the chart in the proposed rule, the chart in this final rule distinguishes the level of restriction and identification required based on whether an animal is being moved to slaughter, to be bred, to be displayed at a show, or for other reasons. As commenters pointed out, it is necessary to preserve these distinctions because each type of movement presents different opportunities for animals to spread or contract scrapie, and therefore different levels of risk.

Many commenters also suggested that the identification requirements for lambs moved to slaughter be relaxed. The proposal required that lambs moved to slaughter be individually identified if they were over 6 months of age. Some commenters presented economic arguments that it was simply too expensive and difficult for large production flocks to individually identify hundreds or thousands of lambs in order to move them to slaughter. Other commenters presented arguments based on the age at which scrapie can be first diagnosed. Both types of comments urged that individual animal identification for animals moving to slaughter should not be required until animals reach sexual maturity. The age at which commenters suggested lambs should be identified ranged from 9 to 18 months.

APHIS agrees that age and sexual maturity are important benchmarks that can be used to divide animals into different groups characterized by different risk levels for scrapie transmission or differing suitability for diagnosis of the disease. We have revised the chart to take this into account. The chart contains lesser restrictions for animals under 18 months of age and greater restrictions for animals over that age. The more severe restrictions will also apply to animals that have lambed or kidded, even if they did so at less than 18 months of age. Specifically, the dividing line in the chart will impose greater restrictions on an animal that has lambed or kidded, or that is over 18 months of age, as evidenced by eruption of the second incisor.

One commenter recommended that identification not be required for animals under 14 months of age, whether they are from Consistent or Inconsistent States, when the animals are in slaughter channels or have been castrated. We agree in part and have removed the identification requirement for castrated animals under 18 months of age and for sexually intact animals that are under 18 months of age when they are moved directly to slaughter or to a terminal feedlot from an Inconsistent State. No identification is required for castrated or sexually intact animals under 18 months of age in slaughter channels when they are moved from a Consistent State.

Some commenters wanted the identification and permitting requirements for high-risk animals relaxed. APHIS believes that it is critical to maintain control of these animals through slaughter to ensure that they do not return to the farm. No changes were made based on these comments.

Based on comments that movement restrictions should use newly-developed genetic tests as a tool, we have added genetic testing as a requirement for the movement of sexually intact exposed animals that are moved for breeding, show, grazing, or other purposes. We have added a requirement to § 79.3(a)(3) and (d)(3) that for female sheep in these classes, the results of an official genotype test showing QR or RR at codon 171 must be included on or attached to the permit that is required to move these animals.

Several other changes to the chart in § 79.3 are discussed below, in context with the comments which brought them about. These comments addressed movement restrictions for goats, methods for issuing certificates and the statements certificates should contain, and other issues.

Proposed List of Consistent States

In the August 15 proposal we stated that the Administrator had evaluated the qualifications of States in accordance with the standards for Consistent States proposed in the November 30 proposal. The Administrator evaluated State statutes, regulations, and directives pertaining to animal health activities, reports, and publications of State animal health agencies, and a written statement from each State animal health agency describing State scrapie control activities. The August 15 proposal announced that all 50 States had submitted written statements indicating their willingness to comply with the proposed requirements and provided copies of their regulatory authority to carry out these actions. The August 15 proposal also proposed certain changes to the standards that a State would have to meet to qualify as a Consistent State and announced that, based on the Administrator's evaluation of all State submissions and other information and reports describing scrapie quarantine and control activities in the States, the Administrator had determined that all 50 States meet the proposed standards for Consistent State status. One of the standards for Consistent State status, in § 79.6(a)(3) of this final rule is that each State must sign a memorandum of understanding (MOU) between APHIS and the State that delineates the respective roles of each in National Scrapie Program implementation. Prior to the August 15 proposal, all States signed letters of intent to draft and sign an MOU with APHIS. The designation of all 50 States as Consistent States is contingent on the State actually signing the MOU. To date, not all States have signed such an MOU. If any States have not signed the necessary MOU by the effective date of this final rule, APHIS will publish another final rule in the **Federal Register** changing the status of those States to Inconsistent.

We received eight comments on the proposal to list all 50 States as Consistent States under the revised standards contained in the August 15 proposal. All of these comments supported the revised qualification standards and supported designating all 50 States as Consistent States, although some suggested associated changes to the regulations. Therefore, this final rule designates all 50 States as Consistent States contingent upon the signing of the MOU and finalizes the standards for Consistent State status that were proposed in the August 15 proposal.

One commenter on the August 15 proposal stated that there should be procedures in the regulations for APHIS to work with individual producers to allow interstate movement of animals, so that producers ''doing a good job'' are not penalized due to problems in another part of the State.

We are not making any change in response to this comment because we believe the problem is addressed by the lighter restrictions on interstate movements from Consistent States in § 79.3, as well as by the provision in § 79.6(a)(10)(i)(A) that allows Consistent States to exempt from identification commercial whitefaced sheep under 18 months of age moving in intrastate commerce if the State has had no case of scrapie in commercial whitefaced sheep and no commercial whitefaced flocks in the State have been exposed by a female animal. We consider it impractical and overly expensive for both APHIS and States to apply this exemption on a basis smaller than Statewide, or to develop unique movement requirements for individual flocks. Also, flock owners would be subject to the most burdensome, Statewide restrictions only in Inconsistent States, but this rule

establishes all States as Consistent States, at least for now, if they sign the appropriate MOU.

Several commenters on the August 15 proposal said that APHIS should clearly state that entering data in the Generic Database is an acceptable alternative to entering data in the National Scrapie Database and would minimize the burden and costs to States.

We agree; in fact, the National Scrapie Database is in fact a subset of the Generic Database, and States already entering the required scrapie data in the Generic Database will not have to reenter it. APHIS will continue to work cooperatively with States to minimize the data entry burden for scrapie and other animal health databases. To clarify this point, we have also added to §§ 54.1 and 79.1 a definition of *National Scrapie Database* to read ''A database designated by the Administrator in which APHIS and State animal health agencies cooperatively enter data concerning scrapie outbreaks, flocks and premises affected by scrapie, individual animal identification and premises identification data, and other data to support the Scrapie Eradication Program and the Scrapie Flock Certification Program.''

One commenter on the August 15 proposal said that APHIS should define ''commercial goats'' to clarify which goats must comply with identification requirements and which are exempted. The same commenter suggested that we define ''slaughter channels'' to include private sales of kids to individuals for slaughter.

We agree, and as discussed above, we have added a definition of *commercial sheep or goat* to § 79.1. We are also adding to both §§ 54.1 and 79.1 a definition of *slaughter channels* to read as follows: ''Animals in slaughter channels include any animal that is sold, transferred, or moved either (1) directly to a slaughter facility, (2) to an individual for custom slaughter, or (3) for feeding for the express purpose of improving the animals' condition for movement to slaughter. Any sexually intact animal that is commingled with breeding animals or that has been bred is not in slaughter channels. When selling animals for slaughter, owners should note on the bill of sale that the animals are sold only for slaughter.''

One commenter on the August 15 proposal requested that APHIS exempt animals that are removed from feedlots for breeding purposes from the requirement that animals not in slaughter channels be traceable to premises of birth. The commenters stated that changing economic conditions often makes this necessary and maintained that such animals need to be traced back only to the feedlot for program purposes.

We disagree. Tracing animals to a feedlot is of little epidemiologic value unless the feedlot maintains records that would allow the animals to be traced back to their flocks of origin. Currently this is not the case, and we do not believe imposing such a recordkeeping burden would be warranted at this time. The primary purpose of traceback is to locate infected breeding flocks, not to locate feedlots where animals have temporary residence.

Several commenters on the August 15 proposal suggested that APHIS should begin now to enhance the education and training of producers and accredited veterinarians.

We agree and are engaged in activities to support education and training regarding scrapie control. In addition to projects by APHIS public information offices, we are cooperating on projects with the American Sheep Institute and the National Institute of Animal Agriculture.

One commenter on the August 15 proposal stated that APHIS should develop the Uniform Methods and Rules (UM&R) with full coordination of all segments of industry and the pertinent advisory committees.

We agree, and the final rule states that APHIS will consult with Consistent States and provide an opportunity for industry and public review of the UM&R. We also intend to provide the United States Animal Health Association and the public with the opportunity to review the UM&R in draft form. In regard to this review, it should be noted that the legal requirements for the interstate movement of sheep and goats due to scrapie are contained in 9 CFR parts 54 and 79. The UM&R provides additional guidance to the States regarding the minimum standards necessary for States to participate in the National Scrapie Eradication Program. The UM&R also provides examples of how to comply with those requirements.

One commenter on the August 15 proposal stated that the language concerning the Paperwork Reduction Act in the proposed rule, stating that there were ''no new impacts'' associated with the rule, was inaccurate because livestock markets in particular will have to keep many new records.

The paperwork statement was accurate for the particular rule in which it appeared, i.e., the proposal to list 50 States as Consistent States. That proposal added no new records or forms not already addressed in the earlier November 30 proposed rule. Please refer to the Paperwork Reduction Act section of this final rule to see final analysis of the paperwork issues raised in the November 30 proposed rule.

One commenter on the August 15 proposal stated that since the risk of a positive ram transmitting scrapie is effectively zero, the program should take no regulatory action against a flock based on the presence of an infected ram that was purchased from another flock.

We agree, and the revised definitions of *exposed animal* and *exposed flock* discussed above require the exposure to be to a scrapie-positive female animal, not a ram. On the same basis, to update classifications made under earlier versions of the regulations, § 79.4(b)(8) of the final rule allows an exposed animal to be reclassified if the exposure was only by an infected ram, outside of lambing and breeding situations. This final rule primarily regulates rams by requiring that they be individually identified in certain circumstances. This requirement does not reflect a belief that rams may directly spread scrapie, but rather it exists to allow scrapie-positive rams to be traced back to their flocks of origin or birth, as required, so that the necessary regulatory requirements may be imposed on those flocks.

Comments on Goats

Several commenters requested that goats be exempted from part or all of the regulations due to the low incidence of scrapie in goats. We have made the following changes in response to these comments.

- Since there is no immediate intent to collect diagnostic specimens from goats at slaughter, we have removed the requirement from § 79.3(b) to identify goats in slaughter channels, except for goats that have been exposed to scrapie.
- In § 79.3(a) we have exempted commercial goats that are not in contact with sheep from identification requirements if they originate in a State that has not had a case of scrapie in goats.
- We have allowed Consistent States that have had no cases of scrapie in goat flocks to exempt commercial goats from identification while in intrastate movement.
- We have partially removed the requirement that breeding goats moving interstate from Inconsistent States must originate from a SFCP flock. In this final rule, such goats must originate from a SFCP flock only if they have commingled with sheep, or are from a State that has had scrapie diagnosed in goats that were not commingled with sheep.

Comments on Genetics and Testing

A few commenters recommended that animals that have an R at codon 171 should be exempted from the regulations because of their resistance to scrapie. APHIS disagrees with exempting all animals with an R at codon 171 from all regulation, for the following reasons. While Suffolk sheep with an R at codon 171 are documented in the literature to be more resistant to clinical scrapie than Suffolks that are QQ at codon 171, there have been several reports of sheep that are QR and one report of a sheep that is RR at codon 171 that were diagnosed with scrapie. Also, there has been inadequate work done with other breeds to know if or to what degree an R at codon 171 increases resistance in these sheep. It is also unknown whether a carrier state exists in sheep that are RR or QR at codon 171. However, we believe it is appropriate to classify highly exposed male sheep that are RR at codon 171 and AA at codon 136 as exposed, rather than high risk, since the lower risk from a male sheep combined with the lower genetic susceptibility associated with this genome lowers the risk of spread to a range similar to or less than that of other exposed animals. Likewise, exposed female sheep that are QQ at codon 171 are more susceptible and therefore of higher risk than other exposed animals and so have been included in the definition of high risk animals. APHIS is supporting further research with the U.S. Department of Agriculture's Agricultural Research Service to assess the utility of genotyping for regulatory purposes and will propose adjustments to the regulations as appropriate based on the results.

Several commenters urged the approval of the third eyelid test and also asked that we specify how tests would be approved by the Administrator. We are in the final steps of evaluating the third eyelid test. We have included new §§ 54.10 and 54.11 describing how APHIS will approve tests and laboratories in response to this comment. Essentially, the Administrator will approve new scrapie tests for live or dead animals after evaluating the test protocols and study data regarding each test's methodology, sensitivity, specificity, and reproducibility. The Administrator will approve laboratories after evaluating them using the same type of standards used to evaluate other laboratories authorized to conduct official tests under APHIS regulations. These are well-established standards for evaluating the methodology, personnel, and quality control procedures of diagnostic laboratories. For examples of current APHIS regulations for approval of laboratories, see the equine infectious anemia regulations at § 75.4(c), pseudorabies regulations at § 85.1, and contagious equine metritis regulations at § 93.301(i).

Several commenters have objected to references to a live-animal test that has not been approved yet. We believe that the third eyelid test will be validated by the time this regulation is finalized and will be approved by the Administrator soon thereafter. The references to live-animal tests in this final rule will then aid the speedy and orderly introduction of the test.

Identifying an Animal's Premises of Birth

Several commenters recommended that breeding animals be marked with flock of birth identification. We agree that this is an ideal method to allow complete traceback of animals and encourage its use; however, we are allowing other forms of identification on breeding sheep since birth premises identification is impractical in some circumstances, such as for sheep that no longer reside in their flock of birth or that lose tags after leaving the flock of birth. We have added a requirement to the general movement restrictions in § 79.3(a)(3) and (a)(4) and to the conditions for issuing certificates in § 79.5(a) that, for breeding sheep born after January 1, 2002, the flock of birth must be indicated on any health certificate issued for those sheep. This requirement will make it possible to trace these animals to their flock of birth. Also, as discussed in the August 15 proposal, we have added a requirement to the Consistent State qualification requirements at § 79.6(a)(10)(i), requiring official identification, upon change of ownership, of all animals of any age not in slaughter channels and any sheep over 18 months of age. This requirement will help us trace animals back to their flock of birth in Consistent States. Consistent States must meet this identification requirement within 2 years of their designation as Consistent. When Consistent States impose this identification requirement for intrastate movements, it will substantially increase our ability to trace animals back to their flock of birth.

Publication of Lists of Infected Flocks, Source Flocks, and Flocks Participating in the SFCP

In the past, APHIS has published and has made available through the Internet lists of all known infected flocks, source flocks, and flocks participating in the Scrapie Flock Certification Program. APHIS intends to continue publishing a list of participating flocks, which is available by writing to us or at URL http://www.aphis.usda.gov/vs/scrapie. We have amended § 54.21 to state that a list of noncompliant flocks (defined below) will also be developed and published at that address. However, we do not intend to continue publishing lists of infected and source flocks.

Several commenters supported publishing lists of all infected and source flocks, regardless of whether or not they participate in the SFCP. We have modified the rule to address this concern by requiring the scrapie status to be indicated on all certificates of animals moving for breeding or show purposes, discussed below under ''Comments on Issuance of Certificates,'' and by defining *noncompliant flock* in §§ 54.1 and 79.1 as ''(1) Any source or infected flock whose owner declines to enter into a flock plan or post-exposure management and monitoring plan agreement within 30 days of notification, or whose owner is not in compliance with either agreement; (2) any exposed flock whose owner fails to make animals available for testing within 60 days of notification, or as mutually agreed, or whose owner fails to submit required postmortem samples; (3) any flock whose owner or manager has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or any other information on a certificate, permit, owner statement or other official document within the last 5 years; or (4) any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of this part within the last 5 years.'' Publishing a list of noncompliant flocks, rather than lists of infected and source flocks, will protect the privacy of flock owners who comply with the regulations while listing those who do not and, therefore, present a risk of spreading scrapie.

Commenters also suggested we take steps to improve our ability to enforce the requirements of flock plans by taking action against persons who violate them. To accomplish this, we are slightly changing the definition of *flock plan* to require that a flock plan must be signed by the flock owner and by the accredited veterinarian, if any, employed by the flock owner. We believe signatures are desirable to document that participants in a flock plan have committed to follow its requirements, particularly now that nonperformance could cause a flock to be designated noncompliant. In the proposed definition of *flock plan,* the document did not have to be signed.

Comments on Issuance of Certificates

As mentioned above, some commenters suggested that all infected and source flocks should be kept on a list that potential buyers could consult to obtain information about the scrapie status of animals they might buy. We believe this need for information regarding animals' exposure to scrapie can be met by changing the procedure for issuing certificates to require that certificates include a statement by the owner documenting any relevant information the owner has about the scrapie status of the animals, the exposure of the animals to scrapie, and the status of the animals' flock. This change would also address comments that suggested that certificates should contain more information about exposure of animals to scrapie.

Therefore, we are changing § 79.5, which concerns issuance of certificates, to require that a certificate must include: (1) A statement by the issuing veterinarian that the animals were not exhibiting clinical signs associated with scrapie at the time of examination and (2) an owner statement indicating whether the animal is or is not a scrapie-positive, suspect, high-risk or exposed animal and whether the animal originated in an infected, source, exposed or noncompliant flock. This added information will make the certificate more useful to persons acquiring these animals and to APHIS and State representatives enforcing the regulations, especially because the regulations require permits or prohibit the interstate movement of scrapie-positive, suspect, and high-risk animals, some exposed animals, and animals that originated in an infected or source flock.

Other and General Comments

Several commenters recommended that we make the regulations consistent with the Office International des Epizooties (OIE) draft chapter on scrapie for the International Animal Health Code. While we believe that these regulations are in concordance with the spirit of the OIE draft chapter on scrapie, some requirements in the draft chapter are impractical for some segments of the U.S. sheep industry. Since the draft chapter is still being debated by the member countries, we have decided not to change our regulations in ways that will be costly to our industry without knowing what the final draft will include.

Several commenters supported the basic Consistent State requirements of reportability and movement restrictions but asked that the States be given up to 2 years to come into compliance with the other requirements. We agree, and proposed this change in the August 15 proposal. No commenters objected to this change, and we have included a delayed compliance date for these requirements.

Several commenters stated that ewe lambs sent to feedlots should not be required to be identified. Their reasoning was that only a small percentage of ewe lambs are moved out of feedlots other than to slaughter, and that, in these cases, it would be appropriate to consider the feedlot to be their flock of origin. We disagree, because this would create a significant loophole which would encourage producers worried about their scrapie status to sell their breeding ewe lambs to feeders for resale to prevent tracebacks.

Several commenters asked that we add a medium risk or exposed flock classification for flocks with lower levels of risk, particularly those on pilot project flock plans. We agree and have added an exposed flock classification in § 79.4. We discussed the new definition of *exposed flock* above. This classification will identify animals with some degree of risk that might otherwise be exempted from necessary movement restrictions, e.g., as low-risk commercial sheep.

Several commenters recommended that we give designated scrapie epidemiologists (DSEs), rather than APHIS or State veterinarians, the responsibility for designating animals scrapie-positive, high-risk, or exposed, and for designating flocks as infected, source, or exposed flocks. We agree that a DSE has the appropriate level of technical expertise for making these determinations, and for making redesignations when needed, and have made this change in § 79.4(a). The commenters also suggested we give DSEs increased flexibility in addressing individual flock situations by customizing requirements for individual flock plans and post-exposure management plans and by conducting testing of flocks when test results could justify redesignation of a flock. We agree and have done this by allowing DSEs to determine the testing and monitoring needed for exposed flocks and by allowing them to modify flock plans and post-exposure management and monitoring plans under certain conditions to meet changing needs. These changes expanding the role of DSEs are in § 54.3(a) and in §§ 54.8(f), (h), and (i). We have also changed § 79.4 to allow DSEs that are engaged in designating or redesignating a flock's status to order testing of flock animals if the DSE determines such testing is needed to properly designate a flock. In such cases the DSE will select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent. Testing may include live-animal testing using a live-animal official test, the culling and postmortem examination of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination of animals found dead or cull animals at slaughter.

One commenter stated that flock plans and post-exposure management and monitoring plans should allow APHIS or State representatives, when necessary, to restrict the removal of animals from flocks subject to those plans. Otherwise, animals might be removed from fear that they would be officially determined to be scrapie positive. We agree, and have added appropriate language to § 54.8(d).

Many commenters noted an error in the preamble that stated ''* * * imported lamb sells at a higher price than domestic lamb and mutton.'' In fact, domestic lamb and mutton sell at a higher price than imported lamb and mutton, and this has been corrected in our final regulatory flexibility analysis.

Several commenters supported our proposal to change the name of the Voluntary Scrapie Flock Certification Program to the Scrapie Flock Certification Program (SFCP), and a few commenters opposed the change. Those in favor recognized the trade benefits; those opposed were concerned that the program would no longer be voluntary. We have made no changes in rule based on this comment. Participation in the SFCP will remain voluntary.

Several commenters asked that we review our requirements for importing sheep and goats in light of this rulemaking to ensure equitable treatment. That is outside the scope of this rulemaking but will be considered in making policy and in future changes to the import regulations.

Several commenters expressed concern over how this regulation would affect large commercial range flocks. We agree that some of these concerns are valid and have made several changes to the rule to lessen adverse effects on these flocks. Some of the changes we have made to distinguish commercial flocks from other types were discussed above regarding the definitions of *commercial sheep or goat* and *low-risk commercial sheep.* We have also made changes affecting both intrastate and interstate movement of commercial sheep and goats. These changes, to both the interstate movement restrictions in § 79.3 and the requirements for

Consistent States in § 79.6, include: (1) Allowing Consistent States that have had no cases of scrapie in commercial flocks to exempt them from identification while in intrastate movement under 18 months of age; (2) allowing commercial sheep and goats to be identified with brands or earnotches in interstate movement; (3) reducing the recordkeeping and identification requirements for commercial flocks if they become infected; (4) not designating flocks as infected if the positive animal is a purchased ram; (5) allowing the interstate movement of all animals under 18 months of age in slaughter channels without identification; and (6) allowing increased options for commercial flocks if they are designated infected, source, or exposed and by giving greater latitude to DSEs to modify flock plans and post-exposure management and monitoring plans.

Several commenters recommended that we differentiate between blackfaced and whitefaced sheep based on the higher incidence of reported scrapie cases in blackfaced sheep. We agree in part with this concept and have changed §§ 79.3(a)(7) and (c)(5) of the interstate movement restrictions chart to distinguish between exposure to whitefaced and blackfaced sheep.

A commenter expressed concern over the number of signs that could potentially result in an animal being designated a suspect animal. We believe that this will not be a problem because the definition of *suspect animal* in §§ 54.1 and 79.1 includes the condition ''A sheep or goat that exhibits any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian, or a State or APHIS representative.'' This requires not only that the animal exhibit at least one of the signs but that a veterinarian determine that it is suspicious for scrapie before it is officially designated a suspect animal for regulatory purposes. Anyone who suspects that an animal has scrapie is encouraged to report it to a State, Federal, or accredited veterinarian so that an official determination can be made. In some States, such reporting is a legal requirement.

Several commenters commented on the cost of identifying animals. APHIS will provide alphanumeric tags to accredited veterinarians and backtags to markets and dealers. Additionally, producers may acquire alphanumeric eartags and backtags from APHIS at no cost if they have their premises and the tag sequences recorded in the National Scrapie Database. Producers may also purchase premises identification tags with assigned premises numbers from approved vendors. The requirements for vendors who wish to produce approved tags are contained in § 79.2(f). Discussions with tag companies suggest that the cost of these tags will range from $0.06 for metal tags to $1.00 for highly tamper-resistant plastic flap tags. The type of approved tag used will be up to the producer and their flock identification needs. Also, we have eliminated the identification requirements for most sheep under 18 months of age and all slaughter goats, which substantially reduces the identification cost.

Many commenters also remarked about the cost of applying identification, in addition to the material cost of the tags. We agree that there will be a cost to producers and markets to apply identification and keep records. We have reduced this as much as possible by reducing the number of animals that must be identified, by allowing certificates and market and dealer records to record premises identification rather than individual identification under certain circumstances, and by allowing several options for identification to fit different producers' needs.

Some commenters were concerned that the rule does not indicate the penalties for failing to comply. The maximum criminal and civil penalties that may be imposed are listed in the statutes that are the legal authority behind our regulations. Listing penalty amounts in our regulations is not normal practice for APHIS. In response to this comment we have indicated some instances when violators will have privileges under this rule, such as the ability to apply official identification, revoked. Our intent to publish the identities of noncompliant flocks should also serve as a deterrent. Finally, action may be taken under civil and criminal law against violators of the regulations. Administrative penalties may include warnings, monetary penalties, or withdrawal of certified flock status.

One commenter indicated that this rule would preclude State scrapie control programs. The rule does not preclude States from designing their own scrapie programs for intrastate movements. It would require that the program either meet the minimum specified requirements or can be shown to be equally effective in preventing the interstate movement of scrapie from the State.

Some commenters expressed concern about the effect of burial or incineration on the environment, when animals are disposed of in accordance with the requirements of §§ 54.7(b) or 54.8(f). APHIS believes that the regulations currently in place are adequate for safe, environmentally conscious disposal of this material.

All commenters that addressed disposal costs stated that APHIS should pay the disposal costs for indemnified animals. We agree that APHIS will pay the disposal costs of scrapie-positive and suspect animals that cannot be disposed of by slaughter, and we have changed § 54.7(d) of the rule to provide that APHIS may pay the reasonable costs of disposal for scrapie-positive and suspect animals that are indemnified. To obtain reimbursement for disposal costs, animal owners must obtain written approval of the disposal costs from APHIS, prior to disposal. This paragraph also states that the Administrator may also authorize payment of up to half the reasonable disposal costs for animals that are allowed to be destroyed by slaughter under this section but for which slaughter is not a practical or cost efficient means of disposal. However, § 54.7(d) provides that APHIS may pay more than one-half of the expenses when the Administrator determines that doing so will contribute to scrapie eradication. For reimbursement to be made, the owner of the animals must present the veterinarian in charge with a copy of either a receipt for expenses paid or a bill for services rendered. Any bill for services rendered by the owner must not be greater than the normal fee for similar services provided by a commercial hauler or disposal facility.

Some commenters misinterpreted the indemnity section and were unsure whether indemnity would be provided for both commercial and registered animals. Both the November 30 proposal and this rule provide indemnity for both types of animals, but in differing amounts.

One commenter expressed concern over permitting exposed and high-risk sheep to go to feedlots, because this might pose a risk of spreading scrapie. We agree that allowing high-risk animals, exposed pregnant animals, or exposed animals with a vaginal discharge to go to feedlots from which they might return to the farm would present a significant risk, and we have changed §§ 79.3(b)(3) and (c)(3) of the rule to restrict the movement of these animals to slaughter or to terminal feedlots.

One commenter questioned whether the statement in the November 30 proposal regarding Executive Order 12988 that stated the rule ''preempts all State and local laws and regulations that are in conflict with this rule'' was

accurate, or was needed. The commenter stated that while State restrictions on the interstate movement of sheep and goats that were less stringent than the requirements of the rule will be overruled by the Federal requirements, State restrictions that are stricter than the rule's requirements should be allowed, because they would serve to improve disease control and reduce risks. The commenter also expressed concern that the statement meant that a State could not require any conditions for movement of animals into the State over and above the Federal requirements.

Under Executive Order 12988, a Federal agency that formulates proposed regulations is required to specify in clear language the preemptive effect it intends to be given to its legislation or regulations. The executive order does not specify what that preemptive effect shall be. Historically, domestic animal health regulations of a State have not been challenged when they require conditions on interstate movement that are more stringent than those included in APHIS regulations. However, State regulations that conflict with or subvert Federal regulations concerning the interstate movement of animals and products that are promulgated for the purpose of the control of diseases of livestock and poultry are preempted by the Federal regulations. This is a matter of Constitutional law that we cannot change by regulation.

Scrapie Pilot Projects Final Rule

This final rule also republishes changes to parts 54 and 79 that were made by another final rule concerning scrapie pilot projects. That rule was published and effective on June 27, 2000 (Docket No. 99–067–2, 65 FR 39534–39536). That rule amended the regulations to exempt flocks from certain regulatory requirements when the flocks are participating in scrapie control pilot projects authorized by APHIS.

Miscellaneous Changes

We have also made miscellaneous minor changes to the November 30 and August 15 proposals in this final rule, such as correcting misspellings, revising sentences for clarity, and adding explanatory subject titles to some paragraphs of amendatory language.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed a final regulatory flexibility analysis for this rule. The economic analysis for this rule is summarized below, and a full copy is available from Regulatory Analysis and Development, PPD, APHIS, 4700 River Road Unit 118, Riverdale, MD 20737–1238. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of impacts on small entities as required by the Regulatory Flexibility Act.

We are taking the actions described in this rule in order to strengthen scrapie control programs on the national level and to reduce the losses from scrapie to the sheep and goat industries. This action is considered necessary because not all State scrapie control programs may be effective in identifying animals that may be infected with scrapie and controlling their movement in intrastate and interstate commerce in a manner that will prevent the further spread of scrapie. Statutory authorities, including 21 U.S.C. 111, 114, 114a, and 134a–134h, authorize the Department of Agriculture to conduct programs for the control of communicable animal diseases and to restrict the interstate movement of animals that may spread disease.

As alternatives to this action, APHIS considered a complete ban on interstate movement of sheep and goats from States that do not have effective scrapie control programs. We also considered adding stricter certification, recordkeeping, and animal identification requirements for all sheep and goats moving interstate, without regard to the effectiveness of individual State scrapie programs. We also considered setting up a system to employ a prospective live-animal test in mandatory testing of sheep and goats before they could be sold for any commercial purpose, with mandatory destruction and disposal of animals that fail the test. All of these alternatives would impose more costs and recordkeeping requirements than the selected alternative, and we do not believe any of these alternatives would control scrapie more effectively than the selected alternative. A complete ban on movements from Inconsistent States would hurt the economies of those States, and while it would provide other States with some protection against infection from Inconsistent States, it would not eradicate the reservoirs of scrapie in those States. The alternative of stricter recordkeeping and identification for all interstate movements would not be effective as long as some of the information to be recorded is unknown or dubious, as can frequently happen when the animal originates in a State with a weak scrapie program. The alternative of mandatory testing, and destruction of animals that fail, was discussed in the November 30 proposal. It is not a practical option because a live-animal test has not been validated and approved and is also impractical at this time for economic reasons.

This rule will result in the expenditure of indemnity funds by APHIS to compensate the owners of certain animals destroyed to prevent the spread of scrapie. This will also encourage certain States to improve the effectiveness of their State scrapie programs to avoid additional restrictions on the movement of sheep and goats from their States.

The budgetary effects on APHIS of this rule will fall into four categories, all within available funds: An increase in outlays for staff to work with States and producers as they adapt to the new scrapie program requirements, a new program for indemnity payments, the cost of providing official eartags and backtags, and the cost for disposal (usually by landfill or incineration) of scrapie-positive and suspect animals that are indemnified. The initial amount of indemnity payments (the first year) is estimated to be approximately $761,245, based on an estimated 4,188 animals eligible for indemnity in known scrapie-infected and source flocks, but may be more if producer response to the availability of indemnity results in new admissions of infection that reveal additional cases of scrapie. The amount of indemnity paid should decline in subsequent years, although, if slaughter surveillance is initiated or if live-animal tests are approved and widely used, this decline may not occur for several years, depending on the number of scrapie-positive animals that are revealed by initial use of these tests. This indemnity program will be less costly than *some* previous indemnity programs since it focuses on eliminating individual infected and high-risk animals rather than entire flocks, a focus that should be aided in the near future by the availability of a validated live-animal test. If a live-animal test is accepted for official use, an increase in indemnity costs will be expected initially as new infected flocks are identified.

APHIS will bear the total reasonable cost for disposing of indemnified scrapie-positive and suspect animals, and will bear half the cost for disposal of certain other indemnified animals that are destroyed rather than sent to slaughter. The cost for disposal of each animal will range between a low of approximately $15 (for simple burial in a landfill, the most common method) and a high of approximately $100 (the maximum cost when incineration is required). The method used will vary depending on local disposal alternatives and requirements. The total cost for disposing of an estimated 3000 animals the first year would therefore fall in the range between $30,000 and $300,000, and would probably be on the order of $150,000. The cost for disposing an estimated 4200 animals over the lifetime of the program is estimated to fall in the range between $42,000 and $420,000, probably on the order of $210,000.

Although this rule lists all States as ''Consistent States,'' any State that loses this status will bear additional costs to improve its State scrapie programs so that the producers in that State can avoid additional interstate movement restrictions established for States without effective intrastate control programs. However, the designation of all 50 States as Consistent States indicates that they have already dedicated the resources needed to conduct effective intrastate programs. The signing of the MOU will complete this process of designating a State as a Consistent State.

Overview of U.S. Sheep and Goat Industry Operations, Inventory and Trade

Much of the data used in this analysis is from the 1997 Census of Agriculture (USDA, National Agricultural Statistics Service), the last full census that is available. Where possible, updated 1999 data from Agricultural Statistics 2000 (USDA, National Agricultural Statistics Service) are employed.

There were 7.026 million sheep and lambs in the United States in 1999. There were 5.163 million breeding sheep and lambs, of which 4.433 million were ewes and rams 1 year old or older.

In 1997, as shown in Table 1, small farms accounted for over 99 percent of all the farms raising sheep and lambs, while farms considered to be large accounted for less than 0.3 percent. About 85 percent of the farms had an inventory of less than 100 animals and accounted for about 17 percent of the total inventory of sheep and lambs. On the other hand, sheep operations with an inventory of 5,000 sheep or more represented less than 0.3 percent of the farms but accounted for nearly 26 percent of the total inventory.

TABLE 1.—SHEEP AND LAMBS: FARMS AND INVENTORY BY SIZE, 1997

Farm inventory	Number of farms	Farm share	Inventory share
1 to 24	35584	0.54	0.045
25 to 99	20461	0.31	0.123
100 to 299	6010	0.09	0.123
300 to 999	2429	0.04	0.158
1,000 to 2,499	820	0.01	0.16
2,500 to 4,999	297	0.005	0.128
5,000 or more	189	0.003	0.263
Total	65790		

Source: USDA, *Census of Agriculture* 1997.

Of the total number of operations, about 60 percent were full owners, about 32 percent were part owners, and about 8 percent were tenants.

Sheep are produced in all parts of the United States, although stock levels vary from State to State. Ten States accounted for nearly 73 percent of the total inventory, mostly in western and central areas. Northern and southeastern States have the smallest sheep populations, accounting only for 5.2 percent of the total.

There were about 1.99 million goats in the United States in 1997, of which 52 percent were goats other than Angora or milk goats, 41 percent were Angora goats and about 7 percent were milk goats. The State of Texas accounted for about 64.3 percent of the goat inventory. Other States where goats are raised include Arizona, California, Georgia, New Mexico, North Carolina, Oklahoma, and Tennessee. These States together represented another 14.2 percent of the U.S. goats holdings. An average holding was about 35 goats. All goat holdings were considered to be small.

During 1999 the United States produced about 247 million pounds of mutton, lamb and goat meat. It exported 5.6 million pounds and imported about 111 million pounds valued at $189.2 million. The United States exported 518,257 sheep and goats valued at $21.99 million in 1999, of which 494,098 went to Mexico. The United States imported 53,165 sheep and goats valued at $5.33 million in 1999, of which 53,126 were from Canada. The United States imported 111 million pounds of sheep and goat meat valued at $190.2 million and exported 5.6 million pounds of sheep and goat meat valued at $6.46 million in 1999. Most lamb and mutton imports came from Australia and New Zealand, countries recognized as being free from scrapie. The United States is a net importer of lamb and mutton.

Sheep and Goats Affected by Scrapie Interstate Movement Restrictions

Nearly 6.487 million lambs and sheep are marketed each year, of which 0.977 million are mature sheep and 5.51 million are lambs less than 18 months of age.[1] There are 15 States with 53 flocks that were on the infected or source flock list as of July 2000. Of these, 47 are infected flocks and 6 are source flocks. Also, 14 additional flocks contained a scrapie-positive animal during FY 2000 but were not considered infected or source flocks in July, either because they had not been formally categorized yet or because they had completed an approved flock plan. Infected and source flocks are potential candidates for destruction and indemnity payments.

Additionally, over the last 10 years (1990–1999), an annual average of 139 animals have been submitted for scrapie diagnosis, of which an annual average of

[1] USDA/NASS, Agriculture Statistics 2000, U.S. Government Printing Office, Washington DC, 2000.

61 (or 44 percent) were determined to be scrapie-positive animals. However, it is likely that the number of reported cases will increase as the indemnity payments become available. There are about 1.578 million breeding sheep and lambs in the 15 States in which positive cases have occurred in FY 2000 or in which a source or infected flock exists. These animals represent approximately 28 percent of all breeding sheep and lambs in the United States and have a market value of about $150 million.

The average size of a flock in an operation in the 15 States was 125, with between 21 and 479 per operation. Approximately 82.9 percent of these sheep are marketed, in most cases across State lines. However, nearly 85 percent of the marketed sheep are lambs less than 18 months of age, and will be exempt from individual animal identification under this final rule.

Indemnity Costs for Animals Destroyed Due to Scrapie

The exact number of scrapie-positive and high-risk animals that will qualify for indemnity payments is not known. However, an estimate of the number of animals potentially eligible for indemnity would be 50 percent (based on field estimates) of the animals in an average infected or source flock (based on past field experience). As noted above, there are currently 47 infected flocks and 6 source flocks, and 14 other flocks that currently or recently contained scrapie-positive animals. Thus, based on average flock size and the average percentage of high-risk animals in infected and source flocks, the number that can be estimated to qualify for indemnity payments during the first year would be 4,188 animals ($=(53 + 14) \times 125 \times 0.50$). This estimate implies that about 0.144 percent of the total number of breeding sheep and goats in the 15 States that can potentially move interstate will be designated as high-risk animals and be eligible for indemnity. The proportion of more expensive registered animals was 74.38 percent (8,199/11,023) [2] Assuming a 75 percent registered to 25 percent nonregistered animal composition, the respective indemnity payments approximately range between $161 and $322 for registered animals and between $61 and $122 for nonregistered animals. The payment for registered animals is the sum of the spot market price and the premium given in order to adjust for value of these animals. Thus, the $322 per head payment for yearlings column includes the $122 spot market price and the $200 premium payment. Nonregistered animals get the spot market price. The estimated indemnity expenditure will be about $761,245 (See table 2 for detail). If the producer response to indemnity payment availability is positive, resulting in an increased number of indemnity requests, the expenditure will increase accordingly. However, even if a much larger number of animals were to be indemnified, the destruction of all known infected animals will greatly advance the goal of scrapie eradication, and can only be positive in terms of long-term reduced expenditure.

TABLE 2.—THE INDEMNITY COST

Group	Registered (75%)			Non registered (25%)			Total
	Number	$/Head	Cost	Number	$/Head	Cost	
Yearlings (1 to 2 years)	431	$322	$138,782	144	$122	$17,568	$156,350
Running ages:							
2 to under 4 years	647	290	187,630	216	90	19,440	207,070
4 to 6 years	647	190	122,930	216	90	19,440	142,370
Aged (>6 years)	431	161	69,391	144	61	8,784	78,175
Ewe lambs	985	175	172,375	327	75	4,905	177,280
Total	3,141	.....	691,108	1,047	.....	70,137	761,245

Note: This chart assumes a distribution based on 1999 flock data for the ages, and resultant indemnity status, of the 4,188 animals estimated to be eligible for indemnity. We also assumed 75 percent of these animals are registered. We also estimated that 80 percent of non-registered ewe lambs will go to slaughter, so indemnity cost for this class will be minimal.

Costs to Producers and APHIS for Official Identification of Animals Moving Interstate

The animal identification required by this rule will result in additional costs. Of the approximately 7.82 million sheep and lambs in the United States, about 6.487 million sheep and lambs (or 82.9 percent) are marketed. Nearly 85 percent of these sheep and lambs that could move interstate are lambs less than 18 months of age in slaughter channels, which will not require identification tags under the new rule. Of the 1.99 million goats (=809,391 angora+146,678 milk+1,033,730 goats), about 27.5 percent could potentially be moved interstate. This assumes that most angora goats do not move interstate, but that about 20 percent of milk goats and 50 percent of other goats might move interstate. The cost of metal identification tags is between 4 cents and 6 cents per animal. Thus, assuming the total number of sheep and goats that will need identification tags is 1.52 million, the tag cost will be between $60,800 ($=1,520,300 \times 0.04$) and $91,220 ($=1,520,300 \times 0.06$). If the time it takes the owner to apply the tag (about 2 minutes per animal) is valued at $7.61 per hour (the revised average wage for livestock workers in January, 2000), this labor cost represents another $385,600 ($=1,520,300 \times 2 \times \$7.61/60$). In some States, tags are provided by APHIS free to accredited veterinarians, while in others, they are purchased by accredited veterinarians through the State. Generally, wherever APHIS directly distributes tags they are free; where States distribute them, there may be no charge, a small processing fee, or a fee covering the full cost of the tags, depending on State regulations. In this rule there is a mechanism for APHIS or the State to provide tags direct to producers. If owners elect to use backtags for direct movements of animals to slaughter instead of eartags, the costs will be less. In either case, owners will incur the costs of applying identification. The effect on goat owners will be less, since about 41 percent of goats are the angora type, which are raised for their mohair and are less frequently moved interstate. Also, the

[2] Based on the composition of 8,199 registered and 2,824 commercial animals that were indemnified in 1990, as reported by APHIS personnel.

owners of goats that qualify as ''low-risk goats'' will not have to individually identify their animals. Thus, the total potential identification costs for goat owners will be between $3,850 and $5,570.

International Trade Effects

The United States has limited foreign trade both in live sheep and goats and their products. Australia, a potential major importer of U.S. sheep for breeding purposes, is scrapie-free and prohibits imports of sheep from the United States. Australia allows imports of live goats from the United States only if they undergo a 3-year quarantine upon arrival. Mexico allows the importation of U.S. sheep only if the sheep are from flocks enrolled in the Voluntary Scrapie Flock Certification Program. Canada allows the importation of U.S. sheep only if a certification statement can be made that no case of scrapie has been diagnosed in the flock of origin for the last 3 years and the animals for export are not the progeny of infected animals. In 1997, the total earnings from exports of live sheep, goats, and sheep and goat meat and meat products were approximately $65 million. The United States is a net exporter of live animals, while it is a net importer of mutton, lamb and goat meat. Both the sources of imports and destinations of exports are concentrated in a few countries. Scrapie-free animals, and to some extent their products, are likely to be highly valued in the domestic and international markets. U.S. breeding stock that can be certified scrapie-free is expected to be in high demand internationally. While scrapie-free status would do little to enhance domestic or export consumption of U.S. mutton and lamb, the lack of scrapie-free status could seriously reduce demand for these products if public fears about transmissible spongiform encephalopathies ever become associated with U.S. sheep products.

The U.S. competitiveness in the domestic and international markets depends upon its reputation for producing high quality animals and products. The actual product, as well as the purchasers' perception of quality, contribute to continued market acceptance. Thus, efforts to eradicate scrapie and secure the health of U.S. sheep and goats will continue to serve the economic interests of the industry and Nation. This rule could give incentive for more rigorous efforts to find infection and proceed rapidly to eradicate infected animals in order to preserve a scrapie-free status.

This rule should benefit U.S. producers in a number of ways, especially by avoiding a number of direct costs and market losses. Associations representing breeding sheep owners, slaughter sheep owners, and wool-production sheep owners have submitted comments supporting the approach of this rule and also stated their associations' opinion that the benefits of the program will greatly exceed the costs. Scrapie may cost the sheep industry as much as $20.1 million per year in direct losses ($10 million in lost breeding stock and embryo export sales, $3.95 million in disposal costs for offal, and $6.176 million to divert offal from ruminant food chains and in loss of offal export markets). Scrapie also costs an unknown amount in lost potential international markets and lost flock productivity. Additionally, the sheep industry currently loses sales to drug companies because the U.S. Food and Drug Administration requires scrapie-free sources of sheep or goat materials for pharmaceutical or biological products implanted or injected in humans.

Therefore, this rule should make the U.S. sheep industry more competitive, particularly in live sheep and goat exports, since current trade shows that the value of live animal exports is almost four times that of the meat in the global market. This rule also addresses consumer concerns about the presence of a transmissible spongiform encephalopathy in food. While there is no evidence that scrapie is a human health risk, and significant epidemiological evidence that it is not, there is a perception of risk.

In summary, this rule will further restrict the interstate movement of sheep and goats from States that do not follow effective management practices for scrapie. Interstate movement of sheep and goats is beneficial, as it reduces interstate price differences faced by consumers of livestock products and allows producers to seek the best available prices for their products. The rule will encourage States to carry out the necessary surveillance and quarantine activities quickly, thereby reducing the spread of the disease. The process outlined in the rule will encourage States to begin stringent surveillance procedures immediately to identify any additional infected flocks and help to realize the goal of eradicating scrapie from the United States. The rule will also encourage flock owners to participate in State scrapie programs or the Federal Scrapie Flock Certification Program, contributing further to the control of scrapie. Apart from the cost of program activities by APHIS and State agencies, and expenditure of indemnity funds by APHIS, the cost of identifying animals for interstate movement is the primary cost imposed by this rule. This cost will impose some burden upon owners, which will be passed along to those who are interested in buying these animals, possibly reducing interstate commerce in sheep and goats slightly.

The changes to the regulations will result in new information collection or recordkeeping requirements, which have been approved by the Office of Management and Budget (see ''Paperwork Reduction Act'' below).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12612 and Federalism

It has been determined under section 6(a) of Executive Order 12612, ''Federalism,'' that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

The Administrator has examined the federalism implications of the requirements in this rule; i.e., different interstate movement requirements for sheep and goats depending on whether they are moving from a Consistent State or an Inconsistent State. The Administrator believes that this action adheres to Constitutional principles for the exercise of Federal power and is clearly authorized by statutory authorities delegated to APHIS.

This action will not absolutely impose any new compliance costs on State or local governments, but it is true that this rule will strongly encourage some States to expend additional funds to upgrade their State programs for disease control in sheep and goats. Owners of sheep and goats in States that do not fund their programs to an extent that allows them to qualify as Consistent States would face additional restrictions on the interstate movement of their sheep and goats. However, this rule designates all States as Consistent States. If one or more States do not maintain Consistent State status, APHIS will review the effects on the particular States involved to determine whether the loss of that status will have a substantial direct effect on the States or their political

subdivisions or on the distribution of power and responsibilities among the various levels of government and, if necessary, prepare a federalism assessment.

This final rule was preceded by proposed rules and an advance notice of proposed rulemaking which sought comments from the public, industry, and State and local officials. Those documents specifically requested comments addressing ''the alignment of Federal interstate movement restrictions with State standards.''

Most States supported the proposal's intention to establish a system to certify that State programs for sheep and goats meet certain minimum standards, in order to provide a baseline of protection against the spread of disease when moving sheep and goats in interstate commerce. Very few officials commented that APHIS should accept any State animal health program without enforcing minimum standards. APHIS disagrees with this position because experience in animal health programs on a national level has shown that the absence of effective programs for scrapie in a few States can quickly cause animal disease problems and financial losses affecting many States as animals move in interstate commerce.

State and local governments had the opportunity to comment on the proposed rules that preceded this final rule, and we encouraged them to submit comments on federalism concerns or any other issues. As implementation of this rule proceeds, APHIS intends to continue active consultation with State animal health agencies and the elected officials of affected State and local governments.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

The information collection requirements that were contained in the proposed rule have been approved under OMB control number 0579–0101. This final rule adds an additional 66,154 burden hours for respondents. Part of this increase is due to the fact that we underestimated the paperwork burden associated with the proposed rule, as several commenters pointed out, and part of the increase results from changes in this final rule that add additional burden in order to improve the disease control effects of the rule and to make indemnity payments more equitable. Our changes in this final rule that made the definitions of *exposed animal, infected flock,* and *source flock* more science-based, and make the rule in general more risk-averse, will also result in more flocks being classified in these categories in the first year or two these regulations are in effect. However, regulated flocks should then decrease in number rapidly in subsequent years, compared to the decrease in numbers they would have experienced under the original proposed rule. In that sense, the changes in this final rule compress more of the paperwork burden into the first year or two of program operations, rather than adding more to the total burden. The paperwork burden estimated for this rule will also decrease significantly as soon as a valid live-animal test is in use, since such a test would have the general effect of reducing the number of animals subject to the regulations, and resolving suspect animal cases more quickly. While such a test is expected to be approved soon, we do not know exactly how soon, and therefore have estimated the paperwork burden without assuming the availability of such a test. Forthcoming advances in electronic animal identification methods should also reduce the paperwork burden estimated for this rule.

As noted above, this additional burden resulted partly from changes to the definitions of *exposed animal, infected flock,* and *source flock* that resulted in more animals placed in these categories, causing additional identification and recordkeeping. Additional burden also resulted from changes in the final rule that require flock owners to do more individual animal identification, and that allowed slaughter plants and livestock markets to act as an agent for the owner in applying required official identification. Also, the final rule expanded the use of owner statements in connection with the movement of animals, resulting in the preparation of more such owners statements each year. Finally, changes to the indemnity procedure shifted indemnity values from a fixed-price approach to a market value approach, requiring more paperwork to document market prices at any given time and to base some indemnities on examination of sale records of flock owners. In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this additional burden has been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, we will publish a document in the **Federal Register** providing notice of the assigned OMB control number and expiration date, or, if approval is denied, providing notice of what action we plan to take.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, tribal governments, and the private sector. Under section 101 of the UMRA, APHIS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires APHIS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects

9 CFR Part 54

Animal diseases, Goats, Indemnity payments, Scrapie, Sheep.

9 CFR Part 79

Animal diseases, Goats, Quarantine, Reporting and recordkeeping requirements, Scrapie, Sheep, Transportation.

Accordingly, we are amending 9 CFR chapter I as follows:

1. Part 54 is revised to read as follows:

PART 54—CONTROL OF SCRAPIE

Sec.
54.1 Definitions.
54.2 Cooperative agreements and memoranda of understanding with States.

Subpart A—Scrapie Indemnification Program

54.3 Animals eligible for indemnity payments.

54.4 Application by owners for indemnity payments.
54.5 Certification by owners.
54.6 Amount of indemnity payments.
54.7 Procedures for destruction of animals.
54.8 Requirements for flock plans and post-exposure management and monitoring plans.
54.9 Waiver of requirements for scrapie control pilot projects.
54.10 Tests for scrapie.
54.11 Approval of laboratories to run official scrapie tests and official genotype tests.

Subpart B—Scrapie Flock Certification Program

54.20 Administration.
54.21 Participation.
54.22 State scrapie certification boards.

Authority: 21 U.S.C. 111, 114, 114a, and 134a–134h; 7 CFR 2.22, 2.80, and 371.4.

§ 54.1 Definitions.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any employee of the United States Department of Agriculture authorized to act for the Administrator.

Animal. A sheep or goat.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS in animal health activities who is authorized by the Administrator to perform the function involved.

Approved laboratory. A laboratory approved by the Administrator in accordance with § 54.11 to conduct one or more scrapie tests, or genotype tests, on one or more tissues.

Approved test. A test for the diagnosis of scrapie approved by the Administrator for use in the scrapie eradication or certification program in accordance with § 54.10.

Area veterinarian in charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned.

Breed association and registries. Organizations listed in § 151.9 of this chapter that maintain the permanent records of ancestry or pedigrees of animals (including the animal's sire and dam), individual identification of animals, and ownership of animals.

Certificate. An official document issued in accordance with § 79.5 of this chapter by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals.

Commingle, commingled, commingling. Animals grouped together and having physical contact with each other, including contact through a fence, but not limited contacts. Commingling also includes sharing the same section in a transportation unit where there is physical contact.

Designated scrapie epidemiologist. An epidemiologist who has demonstrated the knowledge and ability to perform the functions required and who has been selected by the State animal health official and the area veterinarian in charge. The regional epidemiologist and the APHIS National Scrapie Program Coordinator must concur in the selection and appointment of the designated scrapie epidemiologist. The designated scrapie epidemiologist must satisfactorily complete training designated by APHIS.

Destroyed. (1) Euthanized by means other than slaughter, and the carcass disposed of, by means authorized by the Administrator; or

(2) In the case of exposed or high-risk animals that are not known to be infected, either euthanized or disposed of by slaughter; or

(3) Moved to a quarantined research facility if the movement has been approved by the Administrator.

Electronic implant. Any radio frequency identification implant device approved for use in the scrapie program by the Administrator. The Administrator will approve an electronic implant after determining that it is tamper resistant, not harmful to the animal, and readable by equipment available to APHIS and State representatives.

Exposed animal. (1) Any animal that has been in the same flock at the same time as a scrapie-positive female animal, excluding limited contacts; or

(2) Any animal born in a flock after a scrapie-positive animal was born into that flock or lambed in that flock, if born before that flock completes the requirements of a flock plan; or

(3) Any animal that was commingled with a scrapie-positive female animal during or up to 30 days after she lambed, kidded, or aborted, or while a visible vaginal discharge was present, or that was commingled with any other scrapie-positive female animal for 24 hours or more, including during activities such as shows and sales or while in marketing channels; or

(4) Any animal in a noncompliant flock.

Exposed flock. Any flock in which a scrapie-positive animal was born or lambed. Any flock that currently contains a female high-risk, exposed, or suspect animal, or that once contained a female high-risk, exposed, or suspect animal that lambed in the flock and from which tissues were not submitted for official testing and found negative. A flock that has completed a post-exposure management and monitoring plan following the exposure will no longer be an exposed flock.

Flock. All animals that are maintained on a single premises and all animals under common ownership or supervision on two or more premises with animal interchange between the premises. Changes in ownership of part or all of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. Animals maintained temporarily on a premises for activities such as shows and sales or while in marketing channels are not a flock. More than one flock may be maintained on a single premises if:

(1) The flocks are enrolled as separate flocks in the SFCP; or

(2) A State or APHIS representative determines, based upon examination of flock records, that:

(i) There is no interchange of animals between the flocks;

(ii) The flocks never commingle and are kept at least 30 feet apart at all times or are separated by a solid wall through, over, or under which fluids cannot pass and through which contact cannot occur;

(iii) The flocks have separate flock records and identification;

(iv) The flocks have separate lambing facilities, including buildings and pastures, and a pasture or building used for lambing by one flock is not used by the other flock at any time; and

(v) The flocks do not share equipment without cleaning and disinfection in accordance with § 54.7(e). Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules.

Flock of origin. The flock in which an animal most recently resided in which it either was born, gave birth, or was used for breeding purposes. The determination of an animal's flock of origin may be based either on the physical presence of the animal in the flock, the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records.

Flock plan. A written flock management agreement signed by the owner of a flock, the accredited veterinarian, if one is employed by the owner, and a State or APHIS representative in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal. As part of a flock plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan must include the requirements in § 54.8(a) through (f).

Flock sire. A sexually intact male animal that has ever been used for breeding in a flock.

High-risk animal. A sexually intact animal, excluding male sheep that have tested RR at codon 171 and AA at codon 136 using an official genotype test, that is:

(1) The progeny of a scrapie-positive dam; or

(2) Born in the same flock during the same lambing season as progeny of a scrapie-positive dam, unless the progeny of the scrapie-positive dam are from separate contemporary lambing groups; or

(3) Born in the same flock during the same lambing season that a scrapie-positive animal was born, or during any subsequent lambing season, if born before that flock completes the requirements of a flock plan; or

(4) An exposed female sheep that has not tested QR, HR, or RR at codon 171 using an official genotype test.

Infected flock. The flock of origin of a female animal that a State or APHIS representative has determined to be a scrapie-positive animal; or any flock in which a State or APHIS representative has determined that a scrapie-positive female animal has resided unless an epidemiologic investigation conducted by a State or APHIS representative shows that the animal did not lamb or abort in the flock. A flock will no longer be considered an infected flock after it has completed the requirements of a flock plan.

Limited contacts. Incidental contacts between animals from different flocks off the flock's premises such as at fairs, shows, exhibitions and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools must be sterilized between animals for these contacts to be considered limited contacts. Limited contacts do not include any contact, incidental or otherwise, with animals in the same flock or with a female animal during or up to 30 days after she lambed, kidded or aborted or when there is any visible vaginal discharge. Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or residing in other flocks for breeding or other purposes. Examples of limited contacts may be found in the Scrapie Flock Certification Program standards.

Live-animal screening test. Any test for the diagnosis of scrapie in a live animal that is approved by the Administrator as usually reliable but not definitive for diagnosing scrapie, and that is conducted in a laboratory approved by the Administrator.[1]

Mortgage. Any mortgage, lien, or other security or interest held by any person other than the one claiming indemnity.

National Scrapie Database. A database designated by the Administrator in which APHIS and State animal health agencies cooperatively enter data concerning scrapie outbreaks, flocks and premises affected by scrapie, individual animal identification and premises identification data, and other data to support the Scrapie Eradication Program and the Scrapie Flock Certification Program.

National Veterinary Services Laboratories (NVSL). The National Veterinary Services Laboratories, APHIS, U.S. Department of Agriculture, or an NVSL cooperating or contract laboratory.

Noncompliant flock. (1) Any source or infected flock whose owner declines to enter into a flock plan or post-exposure management and monitoring plan agreement within 30 days of being so designated, or whose owner is not in compliance with either agreement;

(2) Any exposed flock whose owner fails to make animals available for testing within 60 days of notification, or as mutually agreed, or whose owner fails to submit required postmortem samples;

(3) Any flock whose owner has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or any other information on a certificate, permit, owner statement, or other official document within the last 5 years; or

(4) Any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of this chapter within the last 5 years.

Official genotype test. Any test to determine the genotype of a live or dead animal that is conducted at either an approved laboratory or at the National Veterinary Services Laboratories, when the animal is officially identified and the samples used for the test are collected and shipped to the laboratory by either an accredited veterinarian or a State or APHIS representative

Official test. Any test for the diagnosis of scrapie in a live or dead animal that is approved by the Administrator for that use and conducted either at an approved laboratory or at the National Veterinary Services Laboratories.

Owner. A person, partnership, company, corporation, or any other legal entity who has legal or rightful title to animals, whether or not they are subject to a mortgage.

Post-exposure management and monitoring plan. A written agreement signed by the owner of a flock, any accredited veterinarian employed by the owner, and a State or APHIS representative in which each participant agrees to undertake actions specified in the agreement to monitor for the occurrence of scrapie in the flock for at least 5 years after the last high-risk or scrapie-positive animal is removed from the flock or after the last exposure of the flock to a scrapie-positive animal, unless otherwise specified by a State or APHIS representative. As part of a post-exposure management and monitoring plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the plan. The plan must include the requirements in § 54.8.

Scrapie control pilot project. A pilot project authorized by the Administrator in writing, designed to test or improve program procedures or to facilitate research, in order to control and eradicate scrapie. In addition to APHIS, participants may include State animal

[1] The names and addresses of laboratories approved by the Administrator to conduct live-animal screening tests will be published in the Notices Section of the **Federal Register.** A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflicts.

health agencies, flock owners, and other parties as necessary.

Scrapie Eradication Program. The cooperative State-Federal program administered by APHIS and Consistent States to control and eradicate scrapie.

Scrapie Eradication Uniform Methods and Rules (UM&R). Cooperative procedures and standards adopted by APHIS and Consistent States for controlling and eradicating scrapie. The UM&R will be reviewed at least annually by representatives of the livestock industry and appropriate State and Federal agencies and the public and will be revised, and published as needed by APHIS.

Scrapie Flock Certification Program (SFCP). The cooperative Federal-State-industry voluntary program for the control of scrapie conducted in accordance with this subpart.

Scrapie Flock Certification Program standards. Cooperative procedures and standards adopted by APHIS and State scrapie certification boards for reducing the incidence and controlling the spread of scrapie through flock certification.[2]

Scrapie-positive animal. An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories or another laboratory authorized by the Administrator to conduct scrapie tests in accordance with this part, through:

(1) Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of scrapie;

(2) The use of proteinase-resistant protein analysis methods including but not limited to immunohistochemistry and/or western blotting on CNS and/or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the Administrator for use on that tissue;

(3) Bioassay;

(4) Scrapie associated fibrils (SAF) detected by electron microscopy; or

(5) Any other test method approved by the Administrator in accordance with § 54.10.[3]

Separate contemporary lambing groups. To be a separate contemporary lambing group, the group must be maintained separately such that the animals cannot come into physical contact with other lambs, kids, ewes or does or birth fluids or placenta from other ewes or does. This separate maintenance must preclude contact through a fence, during lambing and for 60 days following the date the last lamb or kid is born in a lambing season, and must preclude using the same lambing facility as other ewes or does, unless the lambing facility is cleaned and disinfected under supervision by an APHIS representative, State representative, or an accredited veterinarian between lambings in accordance with § 54.7(e). Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules. The flock owner must maintain adequate records to document which animals were maintained in each contemporary lambing group and to document when cleaning and disinfection was performed and who supervised it.

Slaughter channels. Animals in slaughter channels include any animal that is sold, transferred, or moved either directly to a slaughter facility, to an individual for custom slaughter, or for feeding for the express purpose of improving the animals' condition for movement to slaughter. Any sexually intact animal that is commingled with breeding animals or that has been bred is not in slaughter channels. When selling animals for slaughter, owners should note on the bill of sale that the animals are sold only for slaughter.

Source flock. A flock in which a State or APHIS representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less. The determination that an animal was born in a flock will be based on such information as the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records, to show that a scrapie-positive animal was born in the flock, combined with the absence of records indicating that the animal was purchased from outside and added to the flock. If DNA from the animal was previously collected by an accredited veterinarian and stored at an approved genotyping laboratory, or if DNA collection and storage are required for breed registration and the breed registration has appropriate safeguards in place to ensure the integrity of the banking process, the owner may request verification of the animal's identity based on DNA comparison if adequate records and identification have been maintained by the owner and the repository to show that the archived DNA is that of the animal that has been traced to the flock. The owner will be responsible for all costs for the DNA comparison. A flock will no longer be a source flock after it has completed the requirements of a flock plan.

State. Each of the 50 States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all territories or possessions of the United States.

State representative. An individual employed in animal health activities by a State or a political subdivision of a State and who is authorized by the State or political subdivision to perform the function involved.

Suspect animal. An animal will be designated a suspect animal in accordance with § 79.4 of this chapter if it is:

(1) A sheep or goat that exhibits any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian or a State or APHIS representative: Weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor, ''star gazing,'' head pressing, recumbency, or other signs of neurological disease or chronic wasting.

(2) A sheep or goat that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on a live-animal screening test or any other test, unless the animal is designated a scrapie-positive animal.

(3) A sheep or goat that has tested inconclusive or suggestive on an official test for scrapie.

Unofficial test. Any test for the diagnosis of scrapie or for the detection

[2] Individual copies of the Scrapie Flock Certification Program standards may be obtained on the World Wide Web at URL http://www.aphis.usda.gov/vs/scrapie, or from the Animal and Plant Health Inspection Service, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

[3] The names and addresses of laboratories approved by the Administrator to conduct tests are published in the Notices Section of the **Federal Register**. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administratr must give written notice of the proposed withdrawal to the director of the laboratory and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.

of the proteinase resistant protein associated with scrapie in a live or dead animal that either has not been approved by the Administrator or that was not conducted at an approved laboratory or at the National Veterinary Services Laboratories.

§ 54.2 Cooperative agreements and memoranda of understanding with States.

APHIS will execute cooperative agreements and/or memoranda of understanding with the animal health agency of any State in order to cooperatively administer the Scrapie Eradication Program and the Scrapie Flock Certification Program within that State. These agreements will describe the respective roles of APHIS and State personnel in implementing the Scrapie Eradication Program and the Scrapie Flock Certification Program. Each agreement may specify the financial, material, and personnel resources to be committed to these programs and other scrapie control measures by APHIS and the State; assign specific activities related to the control of scrapie within a State to APHIS or State personnel; establish schedules for APHIS representatives or State representatives to visit flocks; establish procedures for maintaining and sharing program records specified in this part, and specify other responsibilities of State representatives and APHIS representatives in support of the Scrapie Eradication Program and the Scrapie Flock Certification Program.

(Approved by the Office of Management and Budget under control number 0579–0101)

Subpart A—Scrapie Indemnification Program

§ 54.3 Animals eligible for indemnity payments.

(a) Indemnity may be paid for an animal only after the owner of the animal has applied for indemnification and been approved in accordance with § 54.4. Indemnity may be paid only for the following:

(1) Destruction of high-risk animals;

(2) Destruction of animals based on an epidemiologic investigation, when the Administrator determines that the destruction of these animals will contribute to the eradication of scrapie;

(3) Destruction of live scrapie-positive animals;

(4) Destruction of animals that test positive on a live-animal screening test; and

(5) Destruction of suspect animals that are destroyed at the request of an APHIS representative.

(b) No indemnity will be paid for an animal if the owner of the animal fails to provide APHIS, within 30 days of request, animal registration certificates, sale and movement records, or other records requested in accordance with § 54.5. No indemnity will be paid until the premises, including all structures, holding facilities, conveyances, and materials contaminated because of occupation or use by the depopulated animals, have been properly cleaned and disinfected in accordance with § 54.7(e). Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules. Premises or portions of premises may be exempted from the cleaning and disinfecting requirements if a designated scrapie epidemiologist determines, based on epidemiologic investigation, that cleaning and disinfection of such buildings, holding facilities, conveyances, or other materials on the premises will not significantly reduce the risk of the spread of scrapie, either because effective disinfection is not possible or because the normal operations on the premises prevent transmission of scrapie. No indemnity will be paid to an owner if the owner assembled or increased his flock for the purpose of collecting or increasing indemnity.

§ 54.4 Application by owners for indemnity payments.

(a) Normally, an application for indemnification will be initiated by a State or APHIS representative who is working with the owner of a flock that has already been determined to be an infected flock or source flock, or that is already under a State movement restriction. In such cases, the flock owner will confirm information about the flock's eligibility for indemnity that is contained in the application submitted by the State or APHIS representative. However, the owner of any flock may apply directly to receive indemnification by submitting to the Administrator a written request containing the following information:

(1) Name, address, and social security number of the flock owner;

(2) Number and breed(s) of animals in the flock, including a current inventory;

(3) Location of flock premises;

(4) Reasons the owner believes animals in his or her flock may be eligible for indemnification, including any diagnosis of scrapie made for animals in the flock; any signs of scrapie observed in the flock by the owner; and any movement of animals into the flock from flocks infected with or exposed to scrapie;

(5) A copy of the registration papers issued in the name of the owner for any registered animals in the flock (registration papers are not required for the payment of indemnity for animals that are not registered). If the registration papers are unavailable, the owner may choose to accept a lesser indemnity in accordance with § 54.6(b)(2) or the area veterinarian in charge may grant a 60-day extension or the Administrator may grant an extension longer than 60 days for the presentation of registration papers; and

(6) Signed release letters addressed to any sheep or goat registry associations that maintain records of the owner's sheep or goats requesting the associations to release to APHIS all records maintained by the association on sheep or goats currently or formerly owned by the applicant.

(b) APHIS will evaluate each application to determine whether the owner's flock contains animals eligible for indemnity in accordance with § 54.3.

§ 54.5 Certification by owners.

Before any indemnity is paid to an owner, the owner must sign a written agreement with APHIS, certifying the following:

(a) The owner will make available for review upon request by a State or APHIS representative all bills of sale, pedigree registration certificates, and other records regarding movement of animals into and from the flock;

(b) If the owner maintains any flock after the payment of indemnity or acquires a new flock that is housed on the same premises within 5 years after the last high-risk or scrapie-positive animal is removed, the owner will maintain the flock in accordance with a post-exposure management and monitoring plan for 5 years;

(c) If the animal for which indemnity is paid is subject to any mortgage, the owner consents to the payment of the indemnity, up to the value of the mortgage, to the person(s) holding the mortgage;

(d) That the animal may be removed to a U.S. Department of Agriculture facility or a quarantined research facility, slaughtered, or euthanized and necropsied and tissues removed for diagnostic or other purposes.

§ 54.6 Amount of indemnity payments.

(a) Indemnity paid for sheep in accordance with § 54.3 will be set based on the following price reports published by the Agricultural Marketing Service (AMS). If pricing information is unavailable from these markets during a

given week or month or if the numbers of animals sold are too low to give an accurate market value, the preceding week or month's value will be used. The AMS reports from the most recent week or month prior to the date APHIS offers to pay an owner indemnity shall be used to calculate the indemnity for that owner's sheep:

(1) The weekly weighted average Choice/Prime slaughter lamb price per pound at Greeley, CO;

(2) The weekly weighted average Utility slaughter ewe price per pound at San Angelo, TX;

(3) The monthly weighted average commercial western ewe lamb replacement price per head;

(4) The monthly weighted average commercial western yearling ewe replacement price per head;

(5) The monthly weighted average commercial western running age ewe price per head.

(6) The monthly weighted average commercial western aged ewe price per head.

(b) For animals under 1 year of age, the basic indemnity shall equal the price per pound from paragraph (a)(1) of this section times the greater of 50 lbs or the actual weight of the animal; except that, for ewe lambs under 1 year of age, the indemnity shall equal the per-head price from paragraph (a)(3) of this section if that price is higher. For sexually intact sheep 8 years of age or older and castrated animals 1 year of age or older, the basic indemnity shall equal the price per pound from paragraph (a)(2) of this section times 150, based on an average weight of 150 lbs. For sexually intact sheep at least 1 year of age and under 2 years of age, the indemnity shall equal the greater of the price per head from paragraph (a)(4) of this section, or the price per pound from paragraph (a)(2) of this section times 150, based on an average weight of 150 lbs. For sexually intact sheep at least 2 years of age and under 6 years of age, the basic indemnity shall equal the greater of the price per head from paragraph (a)(5) of this section or the price per pound from paragraph (a)(2) of this section times 150, based on an average weight of 150 lbs. For sexually intact sheep at least 6 years of age and under 8 years of age, the basic indemnity will equal the greater of the price per head from paragraph (a)(6) of this section or the price per pound from paragraph (a)(2) of this section times 150, based on an average weight of 150 lbs. A premium shall be added to the basic indemnity for each registered animal, equal to $100 for each registered animal under 1 year of age, $200 for each registered animal at least 1 year of age and under 4 years of age, and $100 for each registered animal at least 4 years of age and under 8 years of age. An additional premium of $50 will be added to the basic indemnity for each flock sire. The owner must provide adequate records to qualify for these premiums. When the animals to be indemnified are goats, or are sheep that fall outside the classes covered previously in this paragraph, the Administrator may take into consideration the producer's purchase records and sales records for the preceding 12 to 24 months in determining the indemnity amount, but the indemnity shall not exceed the maximum indemnity calculated for registered sheep in accordance with this section.

(1) If records and identification are inadequate to determine the actual age of animals, an APHIS or State representative will count all sexually intact animals that are apparently under 1 year of age, and those that are apparently at least 1 and under 2 years of age, based on examination of their teeth, and the indemnity for these animals will be calculated. The total number of these animals will be subtracted from the total number of sexually intact animals in the group to be indemnified, and indemnity for the remainder will be calculated based on the assumption that the remainder of the flock is 80 percent aged 2 to 6 years and 20 percent aged 6 to 8 years.

(2) Any animal that is not registered at the time indemnity is first offered, but is eligible to be registered, will receive the registered animal premium reduced by $50.

(c) For animals destroyed by slaughter, the owner will retain the salvage value (the amount paid by a slaughter plant for the animal) of the animals in lieu of receiving the base indemnity. If the salvage value, less transport costs, is less than the base indemnity, APHIS will pay the owner the difference. APHIS will also indemnify the owner in the amount of any registered animal or flock sire premiums for which the animal qualifies.

(d) If the owner disagrees with the average weight estimate, he may have the sheep weighed at a public scale at his own expense, provided that the sheep may not come in contact with other sheep or goats during movement to the public scales, and will be paid based on the actual weight times the AMS weekly average price.

(e) Indemnity will be paid to an owner only for animals actually in a flock at the time indemnity is first offered. Animals removed from the flock as part of a post-exposure management and monitoring plan will be paid indemnity based on the AMS average prices at the time an APHIS representative designates the animals for removal.

§ 54.7 Procedures for destruction of animals.

(a) Scrapie-positive and suspect animals for which indemnification is sought must be destroyed on the premises where they are held, pastured, or penned at the time indemnity is approved or moved to an approved research facility, unless the APHIS representative involved approves in advance of destruction moving the animals to another location for destruction. Animals that are not scrapie-positive or suspect animals for which indemnification is sought may be:

(1) Slaughtered when moved in accordance with part 79 of this chapter and with the prior written approval of the APHIS representative involved;

(2) Destroyed on the premises where they are held, pastured, or penned at the time indemnity is approved;

(3) Moved to an approved research facility; or

(4) Moved to another location for destruction if an APHIS representative approves the movement in advance.

(b) The carcasses of animals destroyed in accordance with this section are authorized by the Administrator to be buried, incinerated, or disposed of by other methods in accordance with local, State, and Federal laws. The carcasses of scrapie-positive and suspect animals may not be processed for human or animal food.

(c) The destruction of animals and disposition of their carcasses in accordance with this part must be monitored by an APHIS representative who will prepare and transmit to the Administrator a report identifying the animals and showing their disposition.

(d) APHIS may pay the reasonable costs of disposal for scrapie-positive and suspect animals that are indemnified. To obtain reimbursement for disposal costs, animal owners must obtain written approval of the disposal costs from APHIS, prior to disposal. The Administrator may also authorize payment of up to half the reasonable disposal costs for animals that are eligible to be destroyed by slaughter under this section but for which slaughter is not a practical or cost efficient means of disposal; *Provided that,* APHIS may pay more than one-half of the expenses when the Administrator determines that doing so will contribute to scrapie eradication. For

reimbursement to be made, the owner of the animals must present the area veterinarian in charge with a copy of either a receipt for expenses paid or a bill for services rendered. Any bill for services rendered by the owner must not be greater than the normal fee for similar services provided by a commercial hauler or disposal facility.

(e) *Cleaning and disinfection of premises and equipment.* When required, cleaning and disinfection shall be conducted under the supervision of a State or APHIS representative as follows. Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules:

(1) *Drylot areas.* When required, remove the manure and top 1–2 inches of soil to reduce contamination. Bury, till under, or compost the removed material in areas not accessed by domestic animals or wildlife.

(2) *Cement, wood, metal, and other non-earth surfaces, tools, equipment, instruments, feed, hay, bedding, and other materials.* Remove all organic material and compost or incinerate.

Clean and wash all surfaces, tools, equipment, and instruments using hot water and detergent. Allow all surfaces, tools, equipment, and instruments to dry completely before disinfecting and sanitizing using the following methods:

(i) Incinerate items by high-temperature incineration methods;

(ii) Autoclave instruments, small tools, and other items at 136 °C for 1 hour;

(iii) To clean dry surfaces, apply a 2-percent chlorine bleach solution at room temperature (at least 18.3 °C for 1 hour, or apply a 1-molar solution of sodium hydroxide (approximately 5 oz. of sodium hydroxide dissolved in l gallon water) at room temperature for at least 1 hour. Note: A 2-molar solution is more effective than a 1-molar solution and should be used when circumstances permit.

§ 54.8 Requirements for flock plans and post-exposure management and monitoring plans.

(a) The owner of the flock or his or her agent must identify all animals 1 year of age or over within the flock. All animals less than 1 year of age must be identified when a change of ownership occurs, with the exception of those animals under 1 year of age moving within slaughter channels that must be identified in accordance with §§ 79.2 and 79.3 of this chapter. The form of identification must be an electronic implant, flank tattoo, ear tattoo, or tamper-resistant ear tag approved for this use by APHIS. In the case of goats, the form of identification may alternatively be a tail fold tattoo. The official identification must provide a unique identification number that is applied by the owner of the flock or his or her agent and must be linked to that flock in the National Scrapie Database.

(b) Upon request by a State or APHIS representative, the owner of the flock or his or her agent must have an accredited veterinarian collect tissues from animals for scrapie diagnostic purposes and submit them to a laboratory designated by a State or APHIS representative.

(c) Upon request by a State or APHIS representative, the owner of the flock or his or her agent must make animals in the flock and the records required to be kept as a part of these plans available for inspection.

(d) The owner of the flock or his or her agent must meet requirements found necessary by a State or APHIS representative to monitor for scrapie and to prevent the recurrence of scrapie in the flock and to prevent the spread of scrapie from the flock. These other requirements may include, but are not limited to: Utilization of a live-animal screening test; restrictions on the animals that may be moved from the flock; segregated lambing; cleaning and disinfection of lambing facilities; and/or education of the owner of the flock and personnel working with the flock in techniques to recognize clinical signs of scrapie and to control the spread of scrapie.

(e) The owner of the flock or his or her agent must immediately report the following animals to a State representative, APHIS representative, or an accredited veterinarian, and not remove them from a flock without written permission of a State or APHIS representative:

(1) Any sheep or goat exhibiting weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, swaying of back end; increased sensitivity to noise and sudden movement; tremor, ''star gazing,'' head pressing, recumbency, or other signs of neurological disease or chronic wasting illness; and

(2) Any sheep or goat in the flock that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on a live-animal screening test or any other test.

(f) *Requirements for flock plans only.* (1) An epidemiologic investigation must be conducted to identify high-risk and exposed animals that currently reside in the flock or that previously resided in the flock, and all high-risk animals, scrapie-positive animals, and suspect animals must be removed from the flock. The animals must be removed either by movement to an approved research facility or by euthanization and disposal of the carcasses by burial, incineration, or other methods in accordance with local, State, and Federal laws, or, in the case of high-risk animals, by movement to slaughter in accordance with the provisions of part 79 of this chapter, or upon request in individual cases by another means determined by the Administrator to be sufficient to prevent the spread of scrapie;

(2) The premises of a flock under a flock plan must be cleaned and disinfected in accordance with § 54.7(e). Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules. Premises or portions of premises may be exempted from the cleaning and disinfecting requirements if a designated scrapie epidemiologist determines, based on epidemiologic investigation, that cleaning and disinfection of such buildings, holding facilities, conveyances, or other materials on the premises will not significantly reduce the risk of the spread of scrapie, either because effective disinfection is not possible or because the normal operations on the premises prevent transmission of scrapie. No area where a scrapie-positive animal lambed or aborted may be exempted;

(3) The owner of the flock, or his or her agent, must request breed associations and registries, livestock markets, and packers to disclose records to APHIS representatives or State representatives, to be used to identify source flocks and trace exposed animals, including high-risk animals; and

(4) The flock owner must agree to conduct post-exposure management and monitoring.

(g) *Requirements for post-exposure management and monitoring plans only:* The plan must require that a State or APHIS representative inspect the flock and flock records at least once every 12 months. The owner of the flock or his or her agent must maintain, and keep for a minimum of 5 years after an animal dies or is otherwise removed from a flock, the following records for each animal in the flock:

(1) Any identifying marks or tags present on the animal, including the

animal's individual official identification number from its electronic implant, flank tattoo, ear tattoo, tamper resistant ear tag, or, in the case of goats, tail fold tattoo, and any secondary form of identification the owner of the flock may choose to maintain;

(2) Sex, year of birth, breed, and when possible to determine, the following: sire, dam, and offspring of the animal;

(3) Date of acquisition and previous flock, if the animal was not born in the flock; and

(4) Disposition of the animal, including the date and cause of death, if known, or date of removal from the flock and name and address of the person to whom the animal was transferred.

(h) *Modification of flock plans and post-exposure management and monitoring plans.* A designated scrapie epidemiologist may modify the requirements of a flock plan or post-exposure management and monitoring plan to accommodate the situation of a particular flock if the modified plan requires:

(1) That a State or APHIS representative inspect the flock and flock records at least once every 12 months;

(2) The testing of animals at a level that will result in 99 percent confidence of detecting a 1 percent prevalence in the flock (for flock plans only);

(3) The official identification of all animals upon leaving the premises of the flock for purposes other than slaughter and of all animals over 18 months of age (as evidenced by the eruption of the second incisor) in slaughter channels; and

(4) Recordkeeping including:

(i) For acquired animals, the date of acquisition, name and address of the person from whom the animal was acquired, any identifying marks or tags present on the animal including the animal's individual official identification number from its electronic implant, flank tattoo, ear tattoo, tamper resistant ear tag, or, in the case of goats, tail fold tattoo, and any secondary form of identification the owner of the flock may choose to maintain.

(ii) For animals leaving the premises of the flock, the disposition of the animal, including, for those animals that are required to be identified, any identifying marks or tags present on the animal, including the animal's individual official identification number from its electronic implant, flank tattoo, ear tattoo, tamper resistant ear tag, or, in the case of goats, a tail fold tattoo, and any secondary form of identification the owner of the flock may choose to maintain, the date and cause of death, if known, or date of removal from the flock and name and address of the person to whom the animal was transferred.

(iii) Maintenance of these records for 5 years.

(5) Requirements equivalent to those contained in paragraphs (b), (c), (d), and (e) of this section.

(i) *Post-exposure management and monitoring plans for exposed flocks that were not source flocks and in which a scrapie infected animal did not lamb.* A designated scrapie epidemiologist shall determine the testing and monitoring requirements for these flocks based on the exposure risk of the individual flock.

§ 54.9 Waiver of requirements for scrapie control pilot projects.

The Administrator may waive the following requirements of this part for participants in a scrapie control pilot project by recording the requirements waived in the scrapie control pilot project plan:

(a) The determination that an animal is a high-risk animal, if the scrapie control pilot project plan contains testing or other procedures that indicate that an animal, despite meeting the definition of high-risk animal, is unlikely to spread scrapie; and

(b) The requirement that high-risk animals must be removed from a flock if the scrapie control pilot project plan contains alternative procedures to prevent the further spread of scrapie without removing high-risk animals from the flock.

§ 54.10 Tests for scrapie.

(a) The Administrator may approve new tests for the diagnosis of scrapie conducted on live or dead animals for use in the Scrapie Eradication Program. The Administrator will base the approval or disapproval of a test on the evaluation by APHIS and, when appropriate, outside scientists, of:

(1) A standardized test protocol that must include a description of the test, a description of the reagents, materials, and equipment used for the test, the test methodology, and any control or quality assurance procedures;

(2) Data to support reproducibility, that is, the ability to reproduce the same result repeatedly on a given sample;

(3) Data to support suitability, that is, data to show that similar results can be produced when the test is run at other laboratories;

(4) Data to support the sensitivity and specificity of the test; and

(5) Any other data requested by the Administrator to determine the suitability of the test for program use.

(b) To be approved, a scrapie test must be able to be replicated at the National Veterinary Services Laboratories, or another reliable, timely, and cost effective method of check testing must be available to APHIS.

(c) A test or combination of tests may be approved for the identification of suspect animals, for the identification of scrapie-positive animals, or for other purposes such as flock certification. For a test to be approved for the identification of scrapie-positive animals, the test must have a specificity comparable to the specificity of the currently approved tests. For a test to be approved as a live animal screening test for the identification of suspect animals, the test must be usually reliable but need not be definitive for diagnosing scrapie.

(d) Specific guidelines for use of approved scrapie tests within the Scrapie Eradication Program or Scrapie Flock Certification Program will be added to this part as tests are approved and will also be contained in the Scrapie Eradication UM&R and the Scrapie Flock Certification Program standards based on the characteristics of the test, including specificity, sensitivity, and predictive value.

(e) If an owner elects to have an unofficial test conducted on an animal for scrapie, or for the proteinase resistant protein associated with scrapie, and that animal tests positive to such a test, the animal will be designated a suspect animal, unless:

(1) The test was run as part of a bona fide research protocol designed to evaluate an unapproved test in which the owner is not informed of the test result; or

(2) The test protocol includes appropriate measures to prevent the spread of scrapie.

§ 54.11 Approval of laboratories to run official scrapie tests and official genotype tests.

(a) State, Federal, and university laboratories, or in the case of genotype tests, private laboratories will be approved by the Administrator when he or she determines that the laboratory:

(1) Employs personnel assigned to supervise the testing who are qualified to conduct the test based on education, training, and experience and who have been trained by the National Veterinary Services Laboratories (NVSL) or who have completed equivalent training approved by NVSL;

(2) Has adequate facilities and equipment to conduct the test;

(3) Follows standard test protocols;

(4) Meets check test proficiency requirements;

(5) Meets recordkeeping requirements;

(6) Will retain records, slides, blocks, and other specimens from all cases for at least 1 year and from positive cases for 5 years;

(7) Will allow APHIS to inspect the laboratory without notice during normal business hours; and

(8) Will report all test results to State and Federal animal health officials within agreed timeframes. An inspection may include, but is not limited to, review and copying of records, examination of slides, observation of the test being conducted, and interviewing of personnel.

(b) A laboratory may request approval to conduct one or more types of scrapie test or genotype test on one or more types of tissue. To be approved, a laboratory must meet the requirements in paragraph (a) of this section for each type of test and for each type of tissue for which they request approval.

(c) The Administrator may withdraw approval of any laboratory for failure to meet any of the conditions required by paragraph (a) of this section. The Administrator shall give written notice of the proposed withdrawal to the director of the laboratory and shall give the director an opportunity to respond. If there are conflicts as to any material fact concerning the reason for withdrawal, a hearing will be held to resolve the conflicts.

Subpart B—Scrapie Flock Certification Program

§ 54.20 Administration.

The Scrapie Flock Certification Program is a cooperative effort between APHIS; members of the sheep and goat industry, including owners of flocks, slaughtering and rendering establishments, and breed associations and registries; accredited veterinarians; and State governments. APHIS coordinates with State scrapie certification boards and State animal health agencies to encourage flock owners to certify their flocks as free of scrapie by being in continuous compliance with the Scrapie Flock Certification Program standards.

§ 54.21 Participation.

Any owner of a sheep or goat flock may apply to enter the Scrapie Flock Certification Program by sending a written request to a State scrapie certification board or to the area veterinarian in charge. A notice containing a current list of flocks participating in the Scrapie Flock Certification Program, and the certification status of each flock, may be obtained from the APHIS web site at URL http://www.aphis.usda.gov/vs/scrapie. A list of noncompliant flocks may also be obtained from this site, and either list may be obtained by writing to the Animal and Plant Health Inspection Service, National Animal Health Programs Staff, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

(Approved by the Office of Management and Budget under control number 0579–0101)

§ 54.22 State scrapie certification boards.

An area veterinarian in charge, after consulting with a State representative and industry representatives, may appoint a State scrapie certification board for the purpose of coordinating activities for the Scrapie Flock Certification Program, including making decisions to admit flocks to the Scrapie Flock Certification Program and to change flock status in accordance with the Scrapie Flock Certification Program standards. These boards are not appointed for the purpose of providing APHIS with consensus advice or policy recommendations. No more than one State scrapie certification board may be formed in each State. Each State scrapie certification board shall include as members the area veterinarian in charge, one or more State representatives, one or more accredited veterinarians, when possible, and one or more owners of flocks, and, at the discretion of the area veterinarian in charge, may include other members.

* * * * *

2. Part 79 is revised to read as follows:

PART 79—SCRAPIE IN SHEEP AND GOATS

Sec.

79.1 Definitions.
79.2 Identification of sheep and goats in interstate commerce.
79.3 General restrictions.
79.4 Designation of scrapie-positive animals, high-risk animals, exposed animals, suspect animals, exposed flocks, infected flocks, noncompliant flocks, and source flocks; notice to owners.
79.5 Issuance of certificates.
79.6 Standards for States to qualify as Consistent States.
79.7 Waiver of requirements for scrapie control pilot projects.

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

§ 79.1 Definitions.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any employee of the United States Department of Agriculture authorized to act for the Administrator.

Animal. A sheep or goat.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS in animal health activities who is authorized by the Administrator to perform the function involved.

Approved laboratory. A laboratory approved by the Administrator in accordance with § 54.11 of this chapter to conduct one or more scrapie tests, or genotype tests, on one or more tissues.

Area veterinarian in charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned.

Blackfaced sheep. Any purebred suffolk, hampshire, shropshire or cross thereof, any non-purebred sheep known to have suffolk, hampshire, or shropshire ancestors, and any non-purebred sheep of unknown ancestry with a black face, except commercial hair sheep.

Breed association and registries. Organizations listed in § 151.9 of this chapter that maintain the permanent records of ancestry or pedigrees of animals (including the animal's sire and dam), individual identification of animals, and ownership of animals.

Certificate. An official document issued in accordance with § 79.5 by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals.

Commercial hair sheep. Any commercial sheep with hair rather than wool that is either a full-blooded hair sheep or that resulted from the cross of a hair sheep with a whitefaced wool sheep.

Commercial sheep or goat. Any animal from a flock from which animals are moved only either directly to slaughter or through slaughter channels to slaughter or any animal that is raised only for meat or fiber production and that is not registered with a sheep or goat registry or used for exhibition.

Commingle, commingled, commingling. Animals grouped together and having physical contact with each other, including contact through a fence,

but not limited contacts. Commingling also includes sharing the same section in a transportation unit where there is physical contact.

Consistent State. (1) A State that the Administrator has determined conducts an active State scrapie control program that either:

(i) Meets the requirements of § 79.6; or

(ii) Effectively enforces a State designed plan that the Administrator determines is at least as effective in controlling scrapie as the requirements of § 79.6.

(2) The Administrator has determined the following States to be Consistent States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Designated scrapie epidemiologist. An epidemiologist who has demonstrated the knowledge and ability to perform the functions required and who has been selected by the State animal health official and the area veterinarian in charge. The regional epidemiologist and the APHIS National Scrapie Program Coordinator must concur in the selection and appointment of the designated scrapie epidemiologist. The designated scrapie epidemiologist must satisfactorily complete training designated by APHIS.

Direct movement to slaughter. Transported to a facility for slaughter, without stops or unloading except for feeding and watering during which the animals are not commingled with any other animals.

Electronic implant. Any radio frequency identification implant device approved for use in the scrapie program by the Administrator. The Administrator will approve an electronic implant after determining that it is tamper resistant, not harmful to the animal, and readable by equipment available to APHIS and State representatives.

Exposed animal. (1) Any animal that has been in the same flock at the same time as a scrapie-positive female animal, excluding limited contacts; or

(2) Any animal born in a flock after a scrapie-positive animal was born into that flock or lambed in that flock, if born before that flock completes the requirements of a flock plan; or

(3) Any animal that was commingled with a scrapie-positive female animal during or up to 30 days after she lambed, kidded, or aborted, or while a visible vaginal discharge was present, or that was commingled with any other scrapie-positive female animal for 24 hours or more, including during activities such as shows and sales or while in marketing channels; or

(4) Any animal in a noncompliant flock.

Exposed flock. Any flock in which a scrapie-positive animal was born or lambed. Any flock that currently contains a female high-risk, exposed, or suspect animal, or that once contained a female high-risk, exposed, or suspect animal that lambed in the flock and from which tissues were not submitted for official testing and found negative. A flock that has completed a post-exposure management and monitoring plan following the exposure will no longer be an exposed flock.

Flock. All animals that are maintained on a single premises and all animals under common ownership or supervision on two or more premises with animal interchange between the premises. Changes in ownership of part or all of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. Animals maintained temporarily on a premises for activities such as shows and sales or while in marketing channels are not a flock. More than one flock may be maintained on a single premises if:

(1) The flocks are enrolled as separate flocks in the SFCP; or

(2) A State or APHIS representative determines, based upon examination of flock records, that:

(i) There is no interchange of animals between the flocks;

(ii) The flocks never commingle and are kept at least 30 feet apart at all times or are separated by a solid wall through, over, or under which fluids cannot pass and through which contact cannot occur;

(iii) The flocks have separate flock records and identification;

(iv) The flocks have separate lambing facilities, including buildings and pastures, and a pasture or building used for lambing by one flock is not used by the other flock at any time; and

(v) The flocks do not share equipment without cleaning and disinfection in accordance with § 54.7(e) of this chapter. Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules.

Flock of origin. The flock in which an animal most recently resided in which it either was born, gave birth, or was used for breeding purposes. The determination of an animal's flock of origin may be based either on the physical presence of the animal in the flock, the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records.

Flock plan. A written flock management agreement signed by the owner of a flock, the accredited veterinarian, if one is employed by the owner, and a State or APHIS representative in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal. As part of a flock plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan must include the requirements in § 54.8(a)(f) of this chapter.

High-risk animal. A sexually intact animal, excluding male sheep that have tested RR at codon 171 and AA at codon 136 using an official genotype test, that is:

(1) The progeny of a scrapie-positive dam; or

(2) Born in the same flock during the same lambing season as progeny of a scrapie-positive dam, unless the progeny of the scrapie-positive dam are from separate contemporary lambing groups; or

(3) Born in the same flock during the same lambing season that a scrapie-positive animal was born, or during any subsequent lambing season, if born before that flock completes the requirements of a flock plan; or

(4) An exposed female sheep that has not tested QR, HR, or RR at codon 171 using an official genotype test.

Inconsistent State. Any State other than a Consistent State.

Infected flock. The flock of origin of a female animal that a State or APHIS representative has determined to be a scrapie-positive animal; or any flock in which a State or APHIS representative has determined that a scrapie-positive female animal has resided unless an epidemiologic investigation conducted by a State or APHIS representative shows that the animal did not lamb or abort in the flock. A flock will no longer

be considered an infected flock after it has completed the requirements of a flock plan.

Interstate commerce. Trade, traffic, transportation, or other commerce between a place in a State and any place outside of that State, or between points within a State but through any place outside that State.

Limited contacts. Incidental contacts between animals from different flocks off the flock's premises such as at fairs, shows, exhibitions and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools must be sterilized between animals for these contacts to be considered limited contacts. Limited contacts do not include any contact, incidental or otherwise, with animals in the same flock or with an animal during or up to 30 days after she lambed, kidded or aborted or when there is any visible vaginal discharge. Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or residing in other flocks for breeding or other purposes. Examples of limited contacts may be found in the Scrapie Flock Certification Program standards.

Live-animal screening test. Any test for the diagnosis of scrapie in a live animal that is approved by the Administrator as usually reliable but not definitive for diagnosing scrapie, and that is conducted in a laboratory approved by the Administrator.[1]

Low-risk commercial sheep. Commercial whitefaced, whitefaced cross, or commercial hair sheep from a flock with no known risk factors for scrapie, including any exposure to female blackfaced sheep, that are identified with a legible permanent brand or earnotch pattern registered with an official brand registry and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected, source, or exposed flock. The term brand includes official brand registry brands on eartags in those States whose brand law or regulation recognizes brands placed on eartags as official brands. Low-risk commercial sheep may only exist in a State where scrapie has not been diagnosed in the previous 10 years in commercial whitefaced, whitefaced cross, or commercial hair sheep that were not commingled with female blackfaced sheep.

Low-risk goat. A goat that is not a scrapie-positive, suspect, high-risk, or exposed animal, that has not been commingled with sheep, and that is from:

(1) A State in which scrapie has not been identified in a goat during the previous 10 years;

(2) A State in which scrapie has been identified in a goat during the previous 10 years, but the scrapie-positive goat was not born in the State and resided in the State for less than 54 months and did not kid while in the State; or,

(3) A State in which scrapie has been identified in a goat during the previous 10 years, and the scrapie-positive goat was commingled with sheep, but flock records allowed a complete epidemiologic investigation to be completed and all resulting infected, source, and exposed goat herds have completed flock plans and are in compliance with post-exposure monitoring plans.

National Scrapie Database. A database designated by the Administrator in which APHIS and State animal health agencies cooperatively enter data concerning scrapie outbreaks, flocks and premises affected by scrapie, individual animal identification and premises identification data, and other data to support the Scrapie Eradication Program and the Scrapie Flock Certification Program.

Noncompliant flock. (1) Any source or infected flock whose owner declines to enter into a flock plan or post-exposure management and monitoring plan agreement within 30 days of being so designated, or whose owner is not in compliance with either agreement;

(2) Any exposed flock whose owner fails to make animals available for testing within 60 days of notification, or as mutually agreed, or whose owner fails to submit required postmortem samples;

(3) Any flock whose owner has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or any other information on a certificate, permit, owner statement, or other official document within the last 5 years; or

(4) Any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of this chapter within the last 5 years.

Official eartag. An identification eartag approved by APHIS as being sufficiently tamper-resistant for the intended use and providing unique identification for each animal. An official eartag may conform to the alphanumeric National Uniform Eartagging system or another system approved by APHIS, or it may bear a premises identification number that either contains or is used in conjunction with the producer's livestock production numbering system to provide a unique identification number.

Official genotype test. Any test to determine the genotype of a live or dead animal that is conducted at either an approved laboratory or at the National Veterinary Services Laboratories, when the animal is officially identified and the samples used for the test are collected and shipped to the laboratory by either an accredited veterinarian or a State or APHIS representative.

Official identification. Identification mark or device approved by APHIS for use in the Scrapie Eradication Program. Examples are listed in § 79.2(a)(2).

Official test. Any test for the diagnosis of scrapie in a live or dead animal that is approved by the Administrator for that use and conducted either at an approved laboratory or at the National Veterinary Services Laboratories.

Owner. A person, partnership, company, corporation, or any other legal entity who has legal or rightful title to animals, whether or not they are subject to a mortgage.

Owner statement. A written statement by the owner that includes the owner's name, signature, address, and phone number, date the animals left the flock of origin, the premises identification number assigned to the premises, the number of animals, the premises portion of the premises identification if premises identification is used, and a statement that the animals were either born or were used for breeding purposes on the premises to which the premises identification is assigned.

Ownership brand. A unique permanent legible brand or earnotch pattern applied to an animal that indicates ownership by a particular person when the brand pattern is registered with a State's official brand recording agency.

[1] The names and addresses of laboratories approved by the Administrator to conduct live-animal screening tests will be published in the Notices Section of the **Federal Register.** A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator will give written notice of the proposed withdrawal to the director of the laboratory, and will give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflicts.

Permit. An official document issued in connection with the interstate movement of animals (VS Form 1–27 or a State form that contains the same information) that is issued by an APHIS representative, State representative, or an accredited veterinarian authorized to sign such permits. A new permit is required for each change in destination for an animal. A permit lists the owner's name and address; points of origin and destination; number of animals covered; purpose of the movement; whether the animals are from an exposed, noncompliant, infected, or source flock; whether the animal is a high-risk, exposed, scrapie-positive, or scrapie suspect animal; transportation vehicle license number or other identification number; and seal number (if a seal is required). A permit also lists all official identification on the animals covered, including the official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, United States Department of Agriculture backtag (when applied serially, only the beginning and the ending numbers need be recorded), individual animal registered breed association registration number, or any other form of official identification present on the animal.

Premises identification. An APHIS approved eartag, backtag, or legible tattoo bearing the premises identification number, consisting of the State postal abbreviation or code followed by a unique alphanumeric number or name, assigned by a State or Federal animal health official to the premises of the flock of origin for the sheep or goats that, in the judgment of the State animal health official or area veterinarian in charge, is epidemiologically distinct from other premises, or a legible permanent brand or ear notch pattern registered with an official brand registry. Premises identification may be used when official individual animal identification is required, if the premises identification method either includes a unique animal number or is used in conjunction with the producer's livestock production numbering system to provide a unique identification number and where, if brands or ear notches are used, the animals are accompanied by an official brand inspection certificate. Clearly visible and/or legible paint brands may be used on animals moving directly to slaughter and on animals moving for grazing or other management purposes without change in ownership.

Scrapie Eradication Program. The cooperative State-Federal program administered by APHIS and Consistent States to control and eradicate scrapie.

Scrapie Eradication Uniform Methods and Rules (UM&R). Cooperative procedures and standards adopted by APHIS and Consistent States for controlling and eradicating scrapie. The UM&R will be reviewed at least annually by representatives of the livestock industry, appropriate State and Federal agencies, and the public and will be drafted, revised, and published as needed by APHIS.

Scrapie Flock Certification Program (SFCP). The cooperative Federal-State-industry voluntary program for the control of scrapie conducted in accordance with subpart B of part 54 of this chapter.

Scrapie Flock Certification Program standards. Cooperative procedures and standards adopted by APHIS and State Scrapie Certification Boards for reducing the incidence and controlling the spread of scrapie through flock certification.[2]

Scrapie-positive animal. An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories or another laboratory authorized by the Administrator to conduct scrapie tests in accordance with this chapter, through:

(1) Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of scrapie;

(2) The use of proteinase-resistant protein analysis methods including but not limited to immunohistochemistry and/or western blotting on CNS and/or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the Administrator for use on that tissue;

(3) Bioassay;

(4) Scrapie associated fibrils (SAF) detected by electron microscopy; or

(5) Any other test method approved by the Administrator in accordance with § 54.10 of this chapter.[3]

Separate contemporary lambing groups. To be a separate contemporary lambing group, the group must be maintained separately such that the animals cannot come into physical contact with other lambs, kids, ewes or does or birth fluids or placenta from other ewes or does. This separate maintenance must preclude contact through a fence, during lambing and for 60 days following the date the last lamb or kid is born in a lambing season, and must preclude using the same lambing facility as other ewes or does, unless the lambing facility is cleaned and disinfected under supervision by an APHIS representative, State representative, or an accredited veterinarian between lambings in accordance with § 54.7(e) of this chapter. Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules. The flock owner must maintain adequate records to document which animals were maintained in each contemporary lambing group and to document when cleaning and disinfection was performed and who supervised it.

Slaughter channels. Animals in slaughter channels include any animal that is sold, transferred, or moved either directly to a slaughter facility, to an individual for custom slaughter, or for feeding for the express purpose of improving the animals' condition for movement to slaughter. Any sexually intact animal that is commingled with breeding animals or that has been bred is not in slaughter channels. When selling animals for slaughter, owners should note on the bill of sale that the animals are sold only for slaughter.

Source flock. A flock in which a State or APHIS representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less. The determination that an animal was born in a flock will be based on such information as the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records, to

[2] Individual copies of the SFCP standards may be obtained on the World Wide Web at URL http://www.aphis.usda.gov/vs, or from the Animal and Plant Health Inspection Service, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

[3] The names and addresses of laboratories approved by the Administrator to conduct tests are published in the Notices Section of the **Federal Register**. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.

show that a scrapie-positive animal was born in the flock, combined with the absence of records indicating that the animal was purchased from outside and added to the flock. If DNA from the animal was previously collected by an accredited veterinarian and stored at an approved genotyping laboratory, or if DNA collection and storage are required for breed registration and the breed registration has appropriate safeguards in place to ensure the integrity of the banking process, the owner may request verification of the animal's identity based on DNA comparison if adequate records and identification have been maintained by the owner and the repository to show that the archived DNA is that of the animal that has been traced to the flock. The owner will be responsible for all costs for the DNA comparison. A flock will no longer be a source flock after it has completed the requirements of a flock plan.

State. Each of the 50 States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all territories or possessions of the United States.

State representative. An individual employed in animal health activities by a State or a political subdivision of a State and who is authorized by the State or political subdivision to perform the function involved.

Suspect animal. An animal will be designated a suspect animal in accordance with § 79.4 if it is:

(1) A sheep or goat that exhibits any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian or a State or APHIS representative: Weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor, ''star gazing,'' head pressing, recumbency, or other signs of neurological disease or chronic wasting.

(2) A sheep or goat that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on a live-animal screening test or any other test, unless the animal is designated a scrapie-positive animal.

(3) A sheep or goat that has tested inconclusive or suggestive on an official test for scrapie.

Terminal feedlot. (1) A dry lot approved by a State or APHIS representative or an accredited veterinarian authorized to perform this function where animals are separated from all other animals by at least 30 feet at all times or are separated by a solid wall through, over, or under which fluids cannot pass and contact cannot occur and from which animals are moved only to another terminal feedlot or directly to slaughter; or

(2) A pasture when approved by and maintained under the supervision of the State and in which only nonpregnant animals are permitted, where there is no direct fence-to-fence contact with another flock, and from which animals are moved only to another terminal feedlot or directly to slaughter.

(3) Records of all animals entering and leaving a terminal feedlot must be maintained for 1 year after the animal leaves the feedlot and must include the person from whom the animals were acquired and the slaughtering facility in which they were slaughtered. Records must be made available for inspection by an APHIS or State representative upon request.

Unofficial test. Any test for the diagnosis of scrapie or for the detection of the proteinase resistant protein associated with scrapie in a live or dead animal that either has not been approved by the Administrator or that was not conducted at an approved laboratory or at the National Veterinary Services Laboratories.

§ 79.2 Identification of sheep and goats in interstate commerce.

(a) No sheep or goat that is required to be individually identified or premises identified by § 79.3 may be sold, transported, received for transportation, or offered for sale or transportation in interstate commerce unless each sheep or goat is identified in accordance with this section.

(1) The sheep or goat must be identified to its flock of origin and, for an animal born after January 1, 2002, to its flock of birth, by the owner of the flock or his or her agent; at whichever of the following points in commerce comes first, *Except that;* animals born after January 1, 2002, may be moved interstate direct to slaughter without identification to flock of birth until June 1, 2003, and animals that cannot be identified to their flock of origin because Consistent States have exempted them from flock of origin identification in intrastate commerce in accordance with § 79.6(a)(10)(i) may be moved interstate with only individual animal identification traceable to the State of origin and to the owner of the animals at the time they were so identified:

(i) The point of first commingling of the sheep or goats in interstate commerce with sheep or goats from any other flock of origin;

(ii) Upon unloading of the sheep or goats in interstate commerce at any livestock market, except a market described in paragraph (a)(1)(iii) of this section;

(iii) Upon leaving a livestock market that has been approved in accordance with this chapter to handle sheep and goats in interstate commerce and that has agreed to act as an agent for the owner to apply official identification to the animals. In such cases the animals must be:

(A) Moved to the market and maintained until officially identified in distinguishable groups identifiable to their flocks of origin and when required their flock of birth by means of partitions or other such maintenance; and,

(B) Accompanied by an owner statement that contains the information needed to officially identify the animals to their flock of origin and, when required, their flock of birth;

(iv) Upon transfer of ownership of the sheep or goats in interstate commerce;

(v) In the case of animals shipped directly to slaughter at a slaughter plant that has agreed to act as an agent for the owner to apply official identification to the animals, upon arrival of the sheep or goats in interstate commerce at the slaughter plant. In such cases the animals must be:

(A) Moved to the slaughter plant and maintained until officially identified in distinguishable groups identifiable to their flocks of origin and when required their flock of birth by means of partitions or other such maintenance; and,

(B) Accompanied by an owner statement that contains the information needed to officially identify the animals to their flock of origin and, when required, their flock of birth. If the slaughter plant has agreed to allow APHIS to conduct slaughter sampling, animals need not be identified if they arrive at the plant on days that an APHIS designated sampler is not available at the plant to collect samples; or

(vi) Prior to moving a sheep or goat across a State line, unless the animals are moving to an approved livestock market in accordance with paragraph (a)(1)(iii) of this section or to an approved slaughter plant in accordance with paragraph (a)(1)(v) of this section.

(2) The sheep or goats must be identified by one of the following means of identification, and must remain so identified until they reach their final destination:

(i) Electronic implants for animals required to be identified by the SFCP, when used in a flock participating in the SFCP and when accompanied by a certificate or owner statement that includes the electronic implant numbers and the name of the chip manufacturer;

(ii) Official eartags, including tags approved for use in the SFCP or APHIS-approved premises identification number eartags when combined with a unique animal identification number;

(iii) United States Department of Agriculture backtags or official premises identification backtags that include a unique animal identification number, when used on sheep or goats moving directly to slaughter and when applied within 3 inches of the poll on the dorsal surface of the head or neck;

(iv) Legible official registry tattoos that have been recorded in the book of record of a sheep or goat registry association when the animal is accompanied by either a registration certificate or a certificate of veterinary inspection. These tattoos may also be used as premises identification if they contain a unique premises prefix that has been linked in the National Scrapie Database with the assigned premises identification number of the flock of origin;

(v) Premises identification eartags or tattoos, if the premises identification method includes a unique animal number or is combined with a flock eartag that has a unique animal number and the animal is accompanied by an owner statement; or

(vi) Premises identification when premises identification is allowed by § 79.3 and the animal is accompanied by an owner statement.

(3) The owner of the flock of origin is responsible for the identification of animals required to be identified by this section. No person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles sheep or goats in interstate commerce shall receive or otherwise handle any animal in interstate commerce that has not been identified as required by this section. If an animal loses its identification to its flock of origin while in interstate commerce it is the responsibility of the person who has control or possession of the animal to identify the animal prior to commingling it with any other animals. This shall be done by applying individual animal identification to the animal as required in paragraph (a)(2) of this section and recording the means of identification and the corresponding animal identification number. If the flock of origin cannot be determined, all possible flocks of origin shall be listed on the record.

(b) Serial numbers for use in official identification will be assigned to each person who applies to the State animal health official or the area veterinarian in charge for the State in which that person maintains his or her place of business. Serial numbers of official eartags will be assigned to each accredited veterinarian or State or APHIS representative who requests official eartags from the State animal health official or the area veterinarian in charge, whoever is responsible for issuing official eartags in that State. The official responsible for issuing eartags in a State may assign serial numbers of official eartags to other responsible persons, such as 4–H leaders, if the State animal health official and the area veterinarian in charge agree that such assignments will improve scrapie control and eradication within the State. Persons assigned serial numbers may either directly apply eartags to animals, or may reassign eartag numbers to producers. If these persons reassign eartag numbers, they must maintain appropriate records that permit traceback of animals to their flock of origin, or flock of birth when required. Premises identification eartag, backtag, and tattoo numbers (series of alphanumeric USDA tags and backtags may be assigned as premises identification if they are linked to the premises in the National Scrapie Database) will be assigned to animal owners by the State animal health official or the area veterinarian in charge, whoever is responsible for assigning premises codes in that State. Persons assigned serial numbers of United States Department of Agriculture backtags, official sheep and goat tattoos, official eartags, and premises identification numbers must:

(1) If the person assigned the numbers is a flock owner, so that the assigned numbers are directly linked to the flock of origin in the national scrapie database, record the following information on a document:

(i) The premises identification number or serial numbers;

(ii) The number of animals so identified;

(iii) The date the animals were identified;

(iv) For animals born after January 1, 2002, that were not born in the flock of origin and that are not identified to the previous flock of origin, the individual identification number applied and the name, street address, including the city and State, or the township, county, and State, and the telephone number, if the telephone number is available, of the flock of birth if known.

(2) If the person assigned the numbers is a veterinarian, extension agent, auction market operator, dealer, or any person other than the owner of the flock of origin, record the following information on a document:

(i) All serial numbers applied to a sheep or goat;

(ii) Any other serial numbers and approved identification appearing on the sheep or goat;

(iii) The street address, including the city and State, or the township, county, and State, of the premises where the approved means of identification was applied;

(iv) The date the identification was applied;

(v) The name, street address, including the city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the owner of the flock of origin and, if different, the person who owns or possesses the sheep or goat, and

(vi) For animals born after January 1, 2002, that were not born in the flock of origin and that are not identified to the previous flock of origin, the individual identification number applied and the name, street address, including the city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the flock of birth if known.

(vii) The serial numbers, the manufacturer, and the type and color of all official tags received. Usually maintaining the tag invoice will meet this requirement.

(3) Maintain these records for 5 years; and

(4) Make these records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) upon request by any authorized employee of the United States Department of Agriculture or the State, and presentation of his or her official credentials.

(5) Any person who fails to comply with these requirements shall not be assigned serial numbers of United States Department of Agriculture backtags, official sheep and goat tattoos, official eartags, or premises identification numbers. If a person who is not in compliance with these requirements has already been assigned such serial numbers, the Administrator may withdraw the assignment by giving notice to such person. After such notice the person shall be subject to criminal and civil penalties if he continues to use those assigned serial numbers.

(c) No person shall apply a premises identification number or a brand or earnotch pattern to an animal that did not originate on the premises to which the number was assigned by a State or APHIS representative or to which the brand or earnotch pattern has been assigned by an official brand registry. This includes individual identification such as USDA tags and backtags that have been assigned to a premises for use as premises identification and registration tattoos that contain prefixes that have been assigned to a premises for use as premises identification. This does not preclude the owner of a flock from using a premises identification number tag assigned to that flock on an animal owned by him that resides in that flock but that was born or previously resided on a different premises as long as the records required in paragraph (b)(1)(iv) of this section are maintained.

(d) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles sheep or goats in interstate commerce must ensure that the animals are identified as required in this part and must keep records relating to the transfer of ownership, shipment, or handling of the sheep or goats, such as yarding receipts, sale tickets, invoices, and waybills.

(1) If official individual animal identification is required, the records must include the number of sheep and/or goats; the breed or cross if known; the name, street address, including city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the owner of the flock of origin and, if different, the person from whom the sheep or goats were purchased or otherwise obtained; and a copy of any documents required to accompany the animal including any certificate, owner statement, letter, or permit; and

(i) For animals not in slaughter channels the records must include all serial numbers and other approved means of identification appearing on the sheep or goat. This requirement may usually be met by maintaining a copy of the certificate that accompanied the animals. The premises number may be recorded instead of the individual numbers in the case of animals identified with premises identification if:

(A) The premises identification meets the requirements of paragraph (a)(2)(v) of this section for individual animal identification; or

(B) The animals are allowed to move interstate with only premises identification in accordance with § 79.3.

(ii) For animals in slaughter channels that are identified with individual animal identification traceable to the flock of origin or that are identified to the flock of origin with official premises identification that meets the requirements for individual animal identification, no additional records are required;

(iii) For animals in slaughter channels that are identified with individual animal identification traceable to a previous flock but not to the flock of origin, or that are identified with official premises identification that meets the requirements for individual animal identification that is traceable to a previous flock but not to the flock of origin, the records must include all serial numbers and other approved means of identification appearing on the sheep or goat;

(iv) For animals that are not required to be identified until they reach their final destination, the records must include the final destination.

(2) If official premises identification is required or allowed, the records must include:

(i) The premises identification number(s) and the number of animals identified with each premises number;

(ii) Copies of any required documents such as the brand inspection certificate, an owner's statement, an accredited veterinarian's statement, or a health certificate;

(iii) The name, street address, including city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the owner of the flock of origin and, if different, the person from whom the sheep or goats were purchased or otherwise obtained.

(3) Each person required to keep records under this paragraph must maintain the records for at least 5 years after the person has sold or otherwise disposed of the sheep or goat to another person, and for such further period as the Administrator may require by written notice to the person, for purposes of any investigation or action involving the sheep or goat identified in the records. The person must make the records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) by any authorized employee of the United States Department of Agriculture or the State, upon that employee's request and presentation of his or her official credentials.

(e) No person may remove or tamper with any means of identification required to be on sheep or goats pursuant to this section while the animals are in interstate commerce, and, at the time of slaughter, animal identification must be maintained throughout postmortem inspection in accordance with regulations of the Food Safety and Inspection Service, U.S. Department of Agriculture, in chapter III of this title.

(f) *Requirements for approval of official premises and individual identification tags.* (1) The Administrator may approve tag companies to produce official premises and/or individual identification tags for use on sheep or goats. Tags may be plastic or metal and must be an appropriate size for use in sheep and goats. Tags must be able to legibly accommodate the required alphanumeric sequences. Tags must resist removal and be difficult to place on another animal once removed, but need not be tamper-proof. Tags must be readily distinguishable as USDA official sheep and goat tags, must carry the alphanumeric sequences, symbols, or logos specified by APHIS, and must have a means of discouraging counterfeiting, such as use of a unique copywrited logo or trade mark. Tags for use only on animals in slaughter channels must be marked with the words ''Meat'' or ''For Slaughter Only,'' or else must be used in conjunction with an ear tattoo of the word ''Meat.''

(2) Written requests for approval of official premises identification tags for sheep and goats should be sent to the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, Attention: National Scrapie Program Coordinator, 4700 River Road Unit 43, Riverdale, MD 20737–1235. The request must include:

(i) Data supporting the durability of the tag and durability and legibility of the identification numbers and high retention rates of the tags in animals, preferably sheep and/or goats. Preference will be given to tags with high legibility and retention rates in sheep and goats that minimize injury to the ear.

(ii) A signed statement agreeing to:

(A) Send official eartags only to a State or APHIS representative, to a flock owner at the address to which the premises number or tag sequence was assigned by a State or APHIS representative, or as directed by APHIS;

(B) Provide a monthly report by State of all tags produced, including the tag sequences produced and the person's and address to which the tags were shipped; and

(C) When required by APHIS, enter the sequences of tags shipped into the National Scrapie Database through a web page interface or other means specified by APHIS.

(iii) Twenty-five sample tags. Additional tags must be submitted if requested by APHIS.

(3) Approval to produce official premises and/or individual identification tags will be valid for 1 year and must be renewed annually. The Administrator may also grant approval to produce tags for periods of less than 1 year in cases where all of the submissions required by this section have not been received or evaluated but there is substantial evidence that the tags meet the requirements of this section. The Administrator may decline to renew a company's approval if the tags do not show adequate retention and durability in field use or if any of the requirements of this section are not met by the tag company. If a company's tags do not show adequate retention and durability in field use or if any of the requirements of this section are not met by the tag company, the approval may be withdrawn with 60 days written notice. Any person who is approved to produce official premises or individual identification tags in accordance with this section and who knowingly produces tags that are not in compliance with the requirements of this section, and any person who is not approved to produce such tags but does so, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 21 U.S.C. 122 and 134e, or other applicable Federal statutes. Such action may be in addition to, or in lieu of, withdrawal of approval to produce tags.

(g) *New types of identification.* Written requests for approval of sheep or goat identification devices and markings not listed in paragraph (a)(2) of this section should be sent to the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. If the Administrator determines that the devices and markings will provide a means of tracing sheep and goats in interstate commerce, a proposal will be published in the **Federal Register** to add the devices and markings to the list of approved means of sheep and goat identification.

§ 79.3 General restrictions.

The following prohibitions and movement conditions apply to the interstate movement of sheep and goats, and no sheep or goat may move interstate except in compliance with them.

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
(a) Sale or other movement of breeding animals, show animals or any other animal not specifically addressed in this chart. General Condition: No animal may be removed from slaughter channels in interstate commerce if it was sold at a slaughter-only auction, is identified with a tag or ear tattoo marked ''meat'' or ''slaughter only,'' or was sold with a bill of sale marked for slaughter only, and other animals may be removed from slaughter channels in interstate commerce only if they are identified to their flock of birth.—		
(1) High-risk, scrapie-positive, or suspect animals, or animals from a noncompliant flock.	Prohibited [1]	Prohibited [1]
(2) Non-high-risk animals from an infected or source flock that are not scrapie-positive or suspect animals.	Prohibited [1]	Prohibited,[1] except as allowed in an approved scrapie control pilot project flock plan and must meet the requirements for exposed animals.
(3) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and are not animals from an infected or source flock.	Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS recognized program, have official individual animal identification, and a permit.[2] For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171. For any female animal moving for exhibition, the permit must include a statement by both the owner and the accredited veterinarian that the animal has not lambed or aborted within 30 days of being exhibited and is not due to lamb within 30 days of being exhibited and that there is no visible vaginal discharge. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	Official individual animal identification and a permit.[2] For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171. For any female animal moving for exhibition, the permit must include a statement by both the owner and an accredited veterinarian that the animal has not lambed or aborted within 30 days of being exhibited and is not due to lamb within 30 days of being exhibited and that there is no visible vaginal discharge. For any animal born after 1–1–2002, the permit must include the flock of birth and the flock of origin, if different.

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS—Continued

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
(4) (i) Sexually intact sheep except as allowed in (a)(7). (ii) Sexually intact goats, except for low-risk goats.	Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS-recognized program, have official individual animal identification, and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	Official individual animal identification and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.
(5) Sexually intact low-risk goats	Official individual animal identification and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	Official individual animal identification and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.
(6) Castrated animals that are not scrapie-positive or suspect animals.	Official individual animal identification and a certificate.	None, except for exposed animals that must have official individual animal identification.
(7) Low-risk commercial sheep	Official individual animal identification and a certificate, and the flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or an equivalent APHIS-recognized program. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	(i) Official premises identification that is a permanent brand or ear notch pattern registered with an official brand registry; (ii) A brand inspection certificate; (iii) An owner statement dated within 30 days stating that the animals were born in the flock, that the flock does not contain any animal exhibiting signs of scrapie, that to the best of his or her knowledge the flock has no risk factors for or exposure to scrapie, and that the flock has never contained: (A) Any animal diagnosed as having scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that were not born in the flock; and (iv) An accredited veterinarian's statement issued within 12 months of the date of movement indicating that, to the best of his or her knowledge, the flock has no known risk factors for or exposure to scrapie, and that he or she has inspected the flock and it does not contain: (A) Any animal exhibiting signs of scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that were not born in the flock. The statements must include the owner's name, address, and the premises identification number and a drawing of the owner's registered brand or ear notch pattern.
(8) Commercial low-risk goats.	Official individual animal identification and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	None.
(b) Sale or other movement directly to slaughter, through slaughter channels to slaughter, or to feedlots for later movement to slaughter of animals that are under 18 months of age as evidenced by eruption of the second incisor, not pregnant, and have not lambed or kidded. General Condition: No animal may be removed from slaughter channels in interstate slaughter channels in interstate commerce if it was sold at a slaughter-only auction, is identified with a tag or ear tattoo marked ''meat'' or ''slaughter only,'' or was sold with a bill of sale marked for slaughter only, and other animals may be removed from slaughter channels in interstate commerce only if they are identified to their flock of birth.—		
(1) Scrapie-positive or suspect animal	Prohibited [1]	Prohibited.[1]

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS—Continued

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
(2) Sexually intact high-risk animals and sexually intact animals from infected or source flocks that are not scrapie-positive or suspect animals.	Official individual animal identification and a permit, or a permit and an indelible ''S'' mark on the left jaw, or sealed conveyance and a permit. (Note: these animals may only be permitted to slaughter or to terminal feedlots.[3])	Official individual animal identification and a permit, or a permit and an indelible ''S'' mark on the left jaw, or sealed conveyance and a permit. (Note: these animals may only be permitted to slaughter or to terminal feedlots.[3])
(3) Exposed sexually intact animals that are not scrapie-positive, suspect, or high-risk. animals and that are not animals from an infected or source flock.	Official individual animal identification for any animal that is not moving directly to slaughter or to a terminal feedlot.[3], [4] (Note: pregnant animals and animals with a visible vaginal discharge may only be permitted to slaughter or to terminal feedlots.).	Official individual animal identification for any animal that is not moving direct to slaughter or to a terminal feedlot.[3], [4] (Note: Pregnant animals and animals with a visible vaginal discharge may only be permitted to slaughter or to terminal feedlots.)
(4) Sexually intact sheep that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock.	Official premises identification or official individual animal identification for any animal that is not moving direct to slaughter or to a terminal feedlot.[3]	None.
(5) Sheep enrolled in the selective monitored or complete monitored category of the SFCP that are not scrapie-positive, suspect, high-risk, or exposed animals.	None	None.
(6) Castrated animals that are not scrapie-positive, or suspect animals.	None	None.
(7) Sexually intact goats that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock.	None	None.
(c) Sale or other movement directly to slaughter, through slaughter channels to slaughter, or to feedlots for later movement to slaughter of animals that are over 18 months of age, as evidenced by eruption of the second incisor, or that are pregnant or that have lambed or kidded. General Condition: No animal may be removed from slaughter channels in interstate commerce if it was sold at a slaughter-only auction, is identified with a tag or ear tattoo marked ''meat'' or ''slaughter only,'' or was sold with a bill of sale marked for slaughter only, and other animals may be removed from slaughter channels in interstate commerce only if they are identified to their flock of birth.—		
(1) Scrapie-positive or suspect animal	Prohibited[1]	Prohibited.[1]
(2) Sexually intact high-risk animals and sexually intact animals from an infected or source flock that are not scrapie-positive, or suspect animals.	Official individual animal identification and a permit, or a permit and an indelible ''S'' mark on the left jaw, or sealed conveyance and a permit. (Note: these animals may only be permitted to slaughter or to terminal feedlots.[3]	Official individual animal identification and a permit, or a permit and an indelible ''S'' mark on the left jaw, or sealed conveyance and a permit. (Note: These animals may only be permitted to slaughter or to terminal feedlots.[3]
(3) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and are not animals from an infected or source flock.	Official individual animal identification and a permit, or a permit and an indelible ''S'' mark on the left jaw, or sealed conveyance and a permit when moving directly to slaughter. (Note: pregnant animals and animals with a visible vaginal discharge may only be permitted to slaughter or to terminal feedlots.[3], [4]	Official individual animal identification. (Note: pregnant animals and animals with a visible vaginal discharge may only be moved directly to slaughter or to terminal feedlots.[3], [4]
(4) Sheep over 18 months of age that are not scrapie-positive, suspect, sexually intact high-risk, or sexually intact exposed animals and that are not sexually intact animals from an infected or source flock.	Official individual animal identification and a certificate.[4].	Official individual animal identification.[4]
(5) Low-risk commercial sheep	Official individual animal identification and a certificate [4].	(i) Official premises identification that is a permanent legible brand or ear notch pattern registered with an official brand registry or, in the case of animals moving directly to slaughter, may be a legible paint brand registered with an official brand registry; (ii) A brand inspection certificate;

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS—Continued

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
		(iii) An owner statement dated within 30 days of the movement stating that the flock does not contain any animal exhibiting signs of scrapie, and that, to the best of his or her knowledge, the flock has no risk factors for or exposure to scrapie and has never contained: (A) Any animal diagnosed as having scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that was not born in the flock; (iv) An accredited veterinarian's statement issued within 12 months of the date of movement indicating that, to the best of his or her knowledge, the flock has no known risk factors for or exposure to scrapie, and that he or she has inspected the flock and it does not contain: (A) Any animal exhibiting signs of scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that was not born in the flock. The statements must include the owner's name, address, and the premises identification number and a drawing of the owner's registered brand or ear notch pattern.[4]
(6) Goats that are not scrapie-positive, suspect, sexually intact high-risk, or sexually intact exposed animals and that are not sexually intact animals from an infected or source flock.	None	None.
(d) Movement of animals for grazing or other management purposes without change of ownership.—		
(1) Scrapie-positive, suspect, or sexually intact high-risk animals.	Prohibited [1]	Prohibited.[1]
(2) Non-high-risk animals from an infected or source flock.	Prohibited [1]	Prohibited,[1] except as allowed in an approved scrapie control pilot project flock plan and must meet the requirements for exposed animals.
(3) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and that are not animals from an infected or source flock.	Official individual animal identification and a permit.[2] For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171.	Official individual animal identification and a permit.[2] For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171.
(4) Sexually intact sheep or sexually intact goats that have been commingled with sheep and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock.	Official premises identification and a certificate..	None.
(5) Sexually intact goats that have not been commingled with sheep and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock.	None	None.
(6) Castrated animals that are not scrapie-positive or suspect animals and are not an animal from an infected or source flock.	None	None.

[1] Animals prohibited movement may be moved interstate only if they are moving interstate for destruction or research as approved by the Administrator.

[2] A copy of the permit must be sent to the State veterinarian and the AVIC of the receiving State prior to movement of animals.

[3] No exposed or high-risk animal from any State or any animal from an Inconsistent State shall be removed from slaughter channels once it has entered interstate commerce.

[4] Official individual animal identification or official premises identification is not required for these slaughter animals if the animals are kept as a group on the same premises on which they were born or used for breeding purposes and are not commingled with animals from another premises at any time, including throughout the feeding, marketing, and slaughter process.

§ 79.4 Designation of scrapie-positive animals, high-risk animals, exposed animals, suspect animals, exposed flocks, infected flocks, noncompliant flocks, and source flocks; notice to owners.

(a) *Designation.* A designated scrapie epidemiologist will designate an animal to be a scrapie-positive animal, high-risk animal, exposed animal, or suspect animal after determining that the animal meets the criteria of the relevant definition in § 79.1.

(1) A State or APHIS veterinarian will designate an animal to be a suspect animal after determining that the animal meets the criteria of the relevant definition in § 79.1.

(2) A designated scrapie epidemiologist will designate a flock to be a source, infected, or exposed flock after reviewing sale, movement, and breeding records that indicate the flock meets the criteria of the relevant definition in § 79.1.

(i) A designated scrapie epidemiologist may conduct testing of animals if he or she determines such testing is needed to properly designate a flock to be a source, infected, or exposed flock. The designated scrapie epidemiologist will select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent or, when flock records are adequate and all exposed animals that lambed in the flock are available for testing, may limit the testing to all exposed and suspect animals. Flocks meeting the definition of infected or source flocks that are designated as exposed flocks must complete a post exposure monitoring and management plan. Testing may include live-animal testing using a live-animal official test, an official genotype test, the culling and postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination and testing of animals found dead or cull animals at slaughter.

(ii) If an owner does not make his or her animals available for testing within 60 days of notification or as mutually agreed or fails to submit required postmortem samples, the flock will be designated a source, infected, or exposed flock, whichever definition applies. Any flock that is pending designation must comply with the movement restrictions for infected flocks.

(3) A designated scrapie epidemiologist will designate a flock to be a noncompliant flock after determining that the flock meets the definition of a noncompliant flock in § 79.1.

(b) *Redesignation.* (1) A designated scrapie epidemiologist may reclassify an animal designated a high-risk animal as an exposed animal after receiving negative results from an official test or in accordance with an approved Scrapie Control Pilot Project.

(2) A State or APHIS veterinarian may remove the suspect animal designation from an animal that had clinical signs of scrapie and that did not test positive for scrapie or for the proteinase resistant protein associated with scrapie upon determination that it is alive and no longer exhibits such signs, or that the signs are not caused by scrapie.

(3) A designated scrapie epidemiologist may remove the suspect animal designation from an animal that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on an unofficial test based on knowledge of the test used or based on an epidemiologic investigation which may include additional testing of the suspect animal and or animals that have been commingled with the suspect animal.

(4) A designated scrapie epidemiologist may remove the suspect animal designation from an animal that tested positive on a live-animal screening test based on an epidemiologic investigation which includes additional official testing of the suspect animal and when appropriate, animals that have been commingled with the suspect animal.

(5) A designated scrapie epidemiologist may remove the exposed flock designation after completing an epidemiologic investigation or upon completion of a post-exposure management and monitoring plan. As part of the epidemiologic investigation the designated scrapie epidemiologist may conduct testing of animals if he or she determines such testing is needed to properly redesignate the flock. The designated scrapie epidemiologist will select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent or, when flock records are adequate and all exposed animals that lambed in the flock are available for testing, may limit the testing to all exposed and suspect animals. Testing may include live-animal testing using a live-animal official test, an official genotype test, the culling and postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination and testing of animals found dead or cull animals at slaughter. A designated scrapie epidemiologist shall redesignate an exposed flock as a noncompliant flock if the owner fails to make his animals available for testing within 60 days of notification or as mutually agreed or fails to submit required postmortem samples.

(6) Based on an epidemiologic investigation and testing, a designated scrapie epidemiologist may redesignate an infected flock or source flock as an exposed flock. The designated scrapie epidemiologist may only use this option when the epidemiologic investigation reveals that the scrapie exposure was minor or could not be confirmed due to inadequate records. The designated scrapie epidemiologist will select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent or, when flock records are adequate and all exposed animals that lambed in the flock are available for testing, may limit the testing to all exposed and suspect animals. Testing may include live-animal testing using a live-animal official test, an official genotype test, the culling and postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination and testing of animals found dead or cull animals at slaughter. Infected or source flocks that are redesignated as exposed flocks must complete a post exposure monitoring and management plan. If an owner does not make his or her animals available for testing within 60 days of notification or as mutually agreed or fails to submit required postmortem samples, the flock designation will remain unchanged.

(7) A designated scrapie epidemiologist may remove the noncompliant flock designation after reviewing any required testing of the flock and determining that the flock has complied with the required testing or no longer meets the definition of a noncompliant flock.

(8) A designated scrapie epidemiologist may redesignate an exposed animal, exposed flock, or infected flock by removing that designation after completing an epidemiologic investigation and determining that the exposure was limited to a scrapie-positive male animal that was not born in the flock (the owner must have adequate records and animal identification to show that the scrapie-positive male animal was purchased).

(c) *Notice to owner.* As soon as possible after making such a determination, a State or APHIS representative will attempt to notify the owner(s) of the flock(s) in writing that

their flock contained or contains a scrapie-positive animal, a suspect animal, a high-risk animal or an exposed animal, or that the flock is an infected, source, exposed, or noncompliant flock or that the flock is pending designation as an infected, source, exposed, or noncompliant flock. The notice will include:

(1) A description of the interstate movement restrictions and identification requirements;

(2) Reporting requirements;

(3) Sample submission requirements for suspect and high-risk animals contained in this part;

(4) Options for controlling the spread of scrapie from, and eradicating scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal; and

(5) In the case of flocks that are pending designation the notification shall include the testing options available to them and the designation their flock will receive if they decline to test.

§ 79.5 Issuance of certificates.

(a) Certificates are required as specified by § 79.3 for certain interstate movements of animals. A certificate must show the official ear tag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, and any other official individual identification of each animal to be moved; *provided that,* in the case of animals identified with premises identification [4] that is assigned to the flock of origin and that meets the requirements for individual animal identification, the premises number may be recorded instead of the individual identification numbers. A certificate must also show the number of animals covered by the certificate; the purpose for which the animals are to be moved; the points of origin and destination; the consignor, and the consignee. Certificates must indicate the flock of birth for any breeding sheep born after January 1, 2002, that are covered by the certificate. The certificate must include a statement by the issuing accredited or State or Federal veterinarian that the animals were not exhibiting clinical signs associated with scrapie at the time of examination and an owner statement indicating whether the animal is or is not a scrapie-positive, suspect, high-risk or exposed animal and whether it originated in an infected, source, exposed, or noncompliant flock. Except as provided in paragraphs (b) and (c) of this section, all of the information required by this paragraph must be typed or written on the certificate. Note that in accordance with § 79.3(a), (b), and (c), scrapie-positive, suspect, and high-risk animals, some exposed animals, and animals that originated in an infected or source flock require permits rather than certificates.

(b) *Animal identification documents attached to certificates.* As an alternative to typing or writing individual animal identification on a certificate, another document may be used to provide this information, but only under the following conditions:

(1) The document must be a State form or APHIS form that requires individual identification of animals;

(2) A legible copy of the document must be stapled to the original and each copy of the certificate;

(3) Each copy of the document must identify each animal to be moved with the certificate, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be typed or written in ink in the identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who prepared the document and the date the document was signed.

(c) *Ownership brands documents attached to certificates.* As an alternative to typing or writing ownership brands on a certificate, an official brand inspection certificate may be used to provide this information, but only under the following conditions:

(1) A legible copy of the official brand inspection certificate must be stapled to the original and each copy of the certificate;

(2) Each copy of the official brand inspection certificate must show the ownership brand of each animal to be moved with the certificate, but any other ownership brands, and any unused space for recording ownership brands, must be crossed out in ink; and

(3) The following information must be typed or written in ink in the official identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the attached document; and

(ii) Either the serial number on the official brand inspection certificate or, if the official brand inspection certificate is not imprinted with a serial number, both the name of the person who prepared the official brand inspection certificate and the date it was signed.

§ 79.6 Standards for States to qualify as Consistent States.

(a) In reviewing a State for Consistent State status, the Administrator will evaluate the State statutes, regulations, and directives pertaining to animal health activities; reports and publications of the State animal health agency; and a written statement from the State animal health agency describing State scrapie control activities and certifying that these activities meet the requirements of this section. In determining whether a State is a Consistent State, the Administrator will determine whether the State:

(1) Has the authority, based on State law or regulation, to restrict the movement of all scrapie-infected and source flocks.

(2) Has the authority, based on State law or regulation, to require the reporting of any animal suspected of having scrapie and test results for any animals tested for scrapie to State or Federal animal health authorities.

(3) Has, in cooperation with APHIS personnel, drafted and signed a memorandum of understanding between APHIS and the State that delineates the respective roles of each in the National Scrapie Program implementation.

(4) Has placed all known scrapie-infected and source flocks under movement restrictions, with movement of animals only to slaughter, to feedlots under permit and movement restrictions that ensure later movement to slaughter, for destruction, or for research. Scrapie-positive and suspect animals may be moved only for transport to an approved research facility or for purposes of destruction.

(5) Has effectively implemented policies to:

(i) Investigate all animals reported as scrapie suspect animals within 7 days of notification;

(ii) Designate a flock's status, within 15 days of notification that the flock contains a scrapie-positive animal, based on an investigation by State or

[4] Ownership brands may be used on certificates for sheep and goats moved interstate when premises identification is required under this part, provided the ownership brands are legible and are registered with the official brand recording agency and the animals are accompanied by a brand inspection certificate.

Federal animal health authorities and in accordance with this part;

(iii) Restrict the movement, in accordance with paragraph (a)(4) of this section, of newly designated scrapie-infected and source flocks within 7 days after they are designated in accordance with § 79.4;

(iv) Relieve infected and source flock movement restrictions only after completion of a flock plan created in accordance with § 54.14 of this chapter or a flock plan created in accordance with an approved scrapie control pilot project, or as permitted by the conditions of such a flock plan, and after agreement by the owner to comply with a 5-year post-exposure management and monitoring plan;

(v) Conduct an epidemiologic investigation of source and infected flocks that includes the designation of high-risk and exposed animals and that identifies animals to be traced;

(vi) Conduct tracebacks of scrapie-positive animals and traceouts of high-risk and exposed animals and report any out-of-State traces to the appropriate State within 45 days of receipt of notification of a scrapie-positive animal; and

(vii) Conduct tracebacks based on slaughter sampling within 15 days of receipt of notification of a scrapie-positive animal at slaughter.

(6) Effectively monitors and enforces quarantines.

(7) Effectively enforces State reporting laws and regulations for scrapie.

(8) Has designated at least one APHIS or State animal health official to coordinate scrapie program activities in the State and to serve as the designated scrapie epidemiologist in the State.

(9) Has educated those engaged in the interstate movement of sheep and goats regarding the identification and recordkeeping requirements of this part.

(10) Has provided APHIS with a plan and timeline for complying with the following additional requirements, which must be met within 2 years of designation of the State as a Consistent State [5]:

(i) Requires, based on State law or regulation, and effectively enforces official identification upon change of ownership of all animals of any age not in slaughter channels and any sheep over 18 months of age as evidenced by eruption of the second incisor such that the animal may be traced to its flock of birth; provided that:

(A) A State may exempt commercial goats in intrastate commerce that have not been in contact with sheep from this identification requirement if there has been in that State no case of scrapie in a commercial goat in the past 10 years that originated in that State and cannot be attributed to exposure to infected sheep, and there are no exposed commercial goat herds in that State; and

(B) A State may exempt commercial whitefaced sheep or commercial hair sheep under 18 months of age in intrastate commerce from this identification requirement if there has been in that State no case of scrapie in the exempted class that originated from that State, and there are no exposed commercial whitefaced or hair sheep flocks in that State that have been exposed by a female animal.

(C) States that exempt these types of commercial animals must put in place the regulations necessary to require identification of these animals within 90 days of these conditions no longer existing.

(ii) Maintains in the National Scrapie Database administered by APHIS, or in a State database approved by the Administrator as compatible with the National Scrapie Database, the State's:

(A) Premises information and assigned premises numbers and individual identification number sequences assigned for use as premises identification;

(B) Individual animal information on all scrapie-positive, suspect, high-risk, and exposed animals in the State;

(C) Individual animal information on all out-of-State animals to be traced; and

(D) Accurate flock status data.

(iii) Requires official individual identification of any live scrapie-positive, suspect, or high-risk animal of any age and of any sexually intact exposed animal of more than 1 year of age or any sexually intact exposed animal of less than 1 year of age upon change of ownership (except for exposed animals moving in slaughter channels at less than 1 year of age), whether or not the animal resides in a source or infected flock.

(iv) Effectively enforces movement restrictions on all scrapie-positive, suspect, and high-risk animals throughout their lives unless they are moved in accordance with § 79.3.

(v) Requires that tissues from all scrapie-positive or suspect animals and female high-risk animals that have lambed (when they have died or have been destroyed) be submitted to a laboratory authorized by the Administrator to conduct scrapie tests and requires complete destruction of the carcasses of scrapie-positive and suspect animals.

(vi) Prohibits any animal from being removed from slaughter channels unless it is identified to the flock of birth, is not from an Inconsistent State, and is not scrapie-exposed or from an infected or source flock.

(b) If the Administrator determines that statutory changes are needed to bring a State into full compliance, the Administrator may grant up to a 2-year extension to allow a State to acquire additional authorities before removing a State's Consistent Status. The decision to grant an extension will be based on the State's ability to prevent the movement of scrapie-infected animals out of the State and on the progress being made in making the needed statutory changes.

§ 79.7 Waiver of requirements for scrapie control pilot projects.

(a) The Administrator may waive the following requirements of this part for participants in a scrapie control pilot project by recording the requirements waived in the scrapie control pilot project plan:

(1) The determination that an animal is a high-risk animal, if the scrapie control pilot project plan contains testing or other procedures that indicate that an animal, despite meeting the definition of high-risk animal, is unlikely to spread scrapie; and

(2) The requirement that high-risk animals must be removed from a flock, if the scrapie control pilot project plan contains alternative procedures to prevent the further spread of scrapie without removing high-risk animals from the flock.

(b) [*Reserved*]

Done in Washington, DC, this 9th day of August 2001.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 01–20693 Filed 8–20–01; 8:45 am]

BILLING CODE 3410–34–P

[5] This provision would apply until January 1, 2003. Any State designated as a Consistent State after that date would have to meet all requirements prior to designation.

Federal Register

Tuesday,
August 21, 2001

Part III

Department of Education

34 CFR Parts 674, 682, and 685

Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 674, 682, and 685

Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: This document contains technical corrections and changes to the regulations for the Federal Perkins Loan Program, the Federal Family Education Loan (FFEL) Program, and the William D. Ford Federal Direct Loan (Direct Loan) Program. The regulations govern the Federal Perkins Loan Program, the Federal Stafford Loan Program, the Federal Supplemental Loans for Students (Federal SLS) Program, the Federal PLUS Program and the Federal Consolidation Loan Program, collectively referred to as the FFEL Program, and the Federal Direct Stafford Loan Program, the Federal Direct PLUS Loan Program, and the Federal Direct Consolidation Loan Program, collectively referred to as the Federal Direct Loan Program. These amendments are needed to correct technical errors and omissions, clarify language, and, where necessary, ensure consistency of language in the regulations of the three loan programs.

DATES: These regulations are effective August 21, 2001.

FOR FURTHER INFORMATION CONTACT: For the FFEL and Perkins Loan Programs, Mr. Brian Smith, or for the Direct Loan Program, Mr. Jon Utz; U.S. Department of Education, 400 Maryland Avenue, SW., Room 3045, Regional Office Building #3, Washington, DC 20202–5345. Telephone: (202) 708–8242.

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 one of the contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: These corrections and changes incorporate technical corrections to the final regulations for the Perkins, FFEL, and Direct Loan programs published in the **Federal Register** on November 1, 2000 (65 FR 65678), and to the existing Perkins and FFEL program regulations in 34 CFR parts 674 and 682.

These technical corrections include conforming changes to § 682.211, which we inadvertently omitted from the final regulations published on November 1, 2000. The changes correct an inconsistency between § 682.402(b)(3) and § 682.211 regarding the length of time a lender may suspend collection activity on a loan while obtaining documentation that the borrower (or student in the case of a PLUS loan) has died.

Waiver of Proposed Rulemaking and Negotiated Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect needed technical corrections to the Perkins, FFEL, and Direct Loan program regulations. These corrections and changes do not affect the substantive rights or obligations of individuals or institutions and do not affect substantive policy. Thus, the Secretary has concluded that these regulations are technical in nature and do not necessitate public comment. Therefore, under 5 U.S.C. 553(b)(B), the Secretary has determined that proposed regulations are unnecessary and contrary to the public interest. The Secretary also waives the 30-day delayed effective date under 5 U.S.C. 553(d)(3).

For the same reasons, the Secretary has determined, under Section 492(b)(2) of the Higher Education Act of 1965, as amended, that these regulations should not be subject to negotiated rulemaking.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education. These regulations also affect lenders and guaranty agencies that participate in the title IV, HEA programs, and individual loan borrowers, as described in the NPRM published on August 2, 2000 (65 FR 47634). These regulations contain technical corrections to current regulations. The changes will not have a significant economic impact on any of the entities affected.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Assessment of Educational Impact

Based on our own review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family education Loan Program; 84.037 Federal Perkins Loan Program; and 84.268 William D. Ford Federal Direct Loan Program)

List of Subjects in 34 CFR Part 674

Loan programs'education, Reporting and recordkeeping requirements, Student aid.

List of Subjects in 34 CFR Parts 682 and 685

Administrative practice and procedure, Colleges and universities, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: August 15, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

For the reasons discussed in the preamble, the Secretary amends title 34 of the Code of Federal Regulations parts 674, 682, and 685 as follows:

PART 674—FEDERAL PERKINS LOAN PROGRAM

1. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa-1087ii and 20 U.S.C. 421–429, unless otherwise noted.

§ 674.9 [Amended]

2. Section 674.9 is amended:

A. In paragraph (h)(1), by removing the words ''previous loan was cancelled due to'' and adding, in their place, ''prior loan under title IV of the Act was discharged after a final determination of'; and by removing the words ''that the

borrower's condition has improved and'; and by removing the word ''and'' from the end of the paragraph.

B. In paragraph (h)(2), by removing the word ''canceled'' and adding, in its place, ''discharged'; and by removing the period and adding, in its place, ''; and'.

C. In paragraph (h)(3), by removing the word ''receives'' and adding, in its place, ''applies for'; and by adding, at the end of the paragraph, ''before receiving the new loan''.

§ 674.61 [Amended]

3. Section 674.61 is amended:

A. In paragraph (b), by removing ''(1)''.

B. By removing paragraph (b)(2).

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

4. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

§ 682.201 [Amended]

5. Section 682.201 is amended:

A. In paragraph (a)(4)(ii), by removing the word ''paragraph'' and adding, in its place, ''section''.

B. In paragraph (a)(6)(iii), by removing the word ''receives'' and adding in its place ''applies for''; and by adding, at the end of the paragraph, ''before receiving the new loan''.

C. In paragraph (b)(1)(vi), by removing the words ''paragraphs (a)(4) and (a)(5)'' and adding, in their place, ''paragraphs (a)(4) and (a)(6), as applicable''.

§ 682.211 [Amended]

6. Section 682.211 is amended:

A. By revising paragraph (f)(5).

B. By redesignating paragraphs (f)(6) through (f)(10) as (f)(7) through (f)(11), respectively.

C. By adding a new paragraph (f)(6).

D. In redesignated paragraph (f)(7), by adding the words ''an unpaid refund,'' before ''attendance at a closed school''.

E. By adding a new paragraph (i)(6).

The additions and revisions read as follows:

§ 682.211 Forbearance.

* * * * *

(f) * * *

(5) For the periods described in § 682.402(c) in regard to the borrower's total and permanent disability;

(6) For a period not to exceed an additional 60 days after the lender has suspended collection activity for the initial 60-day period required pursuant to § 682.211(i)(6) and § 682.402(b)(3), when the lender receives reliable information that the borrower (or student in the case of a PLUS loan) has died;

* * * * *

(i) * * *

(6) The lender shall grant a mandatory administrative forbearance to a borrower for a period not to exceed 60 days after the lender receives reliable information indicating that the borrower (or student in the case of a PLUS loan) has died, until the lender receives documentation of death pursuant to § 682.402(b)(3).

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

7. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

§ 685.200 [Amended]

8. Section 685.200 is amended:

A. In paragraph (a)(1)(iv)(A)(*2*), by removing the words ''when the borrower applied for a total and permanent disability discharge or''.

B. In paragraph (a)(1)(iv)(B)(*2*), by removing the word ''receives'', and adding, in its place, ''applies for''; and by adding, at the end of the first sentence, ''before receiving the new loan''.

[FR Doc. 01–20942 Filed 8–20–01; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Tuesday,
August 21, 2001

Part III

Department of Education

34 CFR Parts 674, 682, and 685

Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 674, 682, and 685

Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: This document contains technical corrections and changes to the regulations for the Federal Perkins Loan Program, the Federal Family Education Loan (FFEL) Program, and the William D. Ford Federal Direct Loan (Direct Loan) Program. The regulations govern the Federal Perkins Loan Program, the Federal Stafford Loan Program, the Federal Supplemental Loans for Students (Federal SLS) Program, the Federal PLUS Program and the Federal Consolidation Loan Program, collectively referred to as the FFEL Program, and the Federal Direct Stafford Loan Program, the Federal Direct PLUS Loan Program, and the Federal Direct Consolidation Loan Program, collectively referred to as the Federal Direct Loan Program. These amendments are needed to correct technical errors and omissions, clarify language, and, where necessary, ensure consistency of language in the regulations of the three loan programs.

DATES: These regulations are effective August 21, 2001.

FOR FURTHER INFORMATION CONTACT: For the FFEL and Perkins Loan Programs, Mr. Brian Smith, or for the Direct Loan Program, Mr. Jon Utz; U.S. Department of Education, 400 Maryland Avenue, SW., Room 3045, Regional Office Building #3, Washington, DC 20202–5345. Telephone: (202) 708–8242.

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 one of the contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: These corrections and changes incorporate technical corrections to the final regulations for the Perkins, FFEL, and Direct Loan programs published in the **Federal Register** on November 1, 2000 (65 FR 65678), and to the existing Perkins and FFEL program regulations in 34 CFR parts 674 and 682.

These technical corrections include conforming changes to § 682.211, which we inadvertently omitted from the final regulations published on November 1, 2000. The changes correct an inconsistency between § 682.402(b)(3) and § 682.211 regarding the length of time a lender may suspend collection activity on a loan while obtaining documentation that the borrower (or student in the case of a PLUS loan) has died.

Waiver of Proposed Rulemaking and Negotiated Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect needed technical corrections to the Perkins, FFEL, and Direct Loan program regulations. These corrections and changes do not affect the substantive rights or obligations of individuals or institutions and do not affect substantive policy. Thus, the Secretary has concluded that these regulations are technical in nature and do not necessitate public comment. Therefore, under 5 U.S.C. 553(b)(B), the Secretary has determined that proposed regulations are unnecessary and contrary to the public interest. The Secretary also waives the 30-day delayed effective date under 5 U.S.C. 553(d)(3).

For the same reasons, the Secretary has determined, under Section 492(b)(2) of the Higher Education Act of 1965, as amended, that these regulations should not be subject to negotiated rulemaking.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education. These regulations also affect lenders and guaranty agencies that participate in the title IV, HEA programs, and individual loan borrowers, as described in the NPRM published on August 2, 2000 (65 FR 47634). These regulations contain technical corrections to current regulations. The changes will not have a significant economic impact on any of the entities affected.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Assessment of Educational Impact

Based on our own review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

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(Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family education Loan Program; 84.037 Federal Perkins Loan Program; and 84.268 William D. Ford Federal Direct Loan Program)

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List of Subjects in 34 CFR Parts 682 and 685

Administrative practice and procedure, Colleges and universities, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: August 15, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

For the reasons discussed in the preamble, the Secretary amends title 34 of the Code of Federal Regulations parts 674, 682, and 685 as follows:

PART 674—FEDERAL PERKINS LOAN PROGRAM

1. The authority citation for part 674 continues to read as follows:

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A. In paragraph (h)(1), by removing the words ''previous loan was cancelled due to'' and adding, in their place, ''prior loan under title IV of the Act was discharged after a final determination of'; and by removing the words ''that the

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C. In paragraph (h)(3), by removing the word ''receives'' and adding, in its place, ''applies for'; and by adding, at the end of the paragraph, ''before receiving the new loan''.

§ 674.61 [Amended]

3. Section 674.61 is amended:

A. In paragraph (b), by removing ''(1)''.

B. By removing paragraph (b)(2).

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

4. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

§ 682.201 [Amended]

5. Section 682.201 is amended:

A. In paragraph (a)(4)(ii), by removing the word ''paragraph'' and adding, in its place, ''section''.

B. In paragraph (a)(6)(iii), by removing the word ''receives'' and adding in its place ''applies for''; and by adding, at the end of the paragraph, ''before receiving the new loan''.

C. In paragraph (b)(1)(vi), by removing the words ''paragraphs (a)(4) and (a)(5)'' and adding, in their place, ''paragraphs (a)(4) and (a)(6), as applicable''.

§ 682.211 [Amended]

6. Section 682.211 is amended:

A. By revising paragraph (f)(5).

B. By redesignating paragraphs (f)(6) through (f)(10) as (f)(7) through (f)(11), respectively.

C. By adding a new paragraph (f)(6).

D. In redesignated paragraph (f)(7), by adding the words ''an unpaid refund,'' before ''attendance at a closed school''.

E. By adding a new paragraph (i)(6).

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(6) For a period not to exceed an additional 60 days after the lender has suspended collection activity for the initial 60-day period required pursuant to § 682.211(i)(6) and § 682.402(b)(3), when the lender receives reliable information that the borrower (or student in the case of a PLUS loan) has died;

* * * * *

(i) * * *

(6) The lender shall grant a mandatory administrative forbearance to a borrower for a period not to exceed 60 days after the lender receives reliable information indicating that the borrower (or student in the case of a PLUS loan) has died, until the lender receives documentation of death pursuant to § 682.402(b)(3).

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

7. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

§ 685.200 [Amended]

8. Section 685.200 is amended:

A. In paragraph (a)(1)(iv)(A)(*2*), by removing the words ''when the borrower applied for a total and permanent disability discharge or''.

B. In paragraph (a)(1)(iv)(B)(*2*), by removing the word ''receives'', and adding, in its place, ''applies for''; and by adding, at the end of the first sentence, ''before receiving the new loan''.

[FR Doc. 01–20942 Filed 8–20–01; 8:45 am]

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Federal Register

Tuesday,
August 21, 2001

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AH79

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final early-season frameworks from which the States, Puerto Rico, and the Virgin Islands may select season dates, limits, and other options for the 2001–02 migratory bird hunting seasons. Early seasons are those that generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. The effect of this final rule is to facilitate the selection of hunting seasons by the States and Territories to further the annual establishment of the early-season migratory bird hunting regulations.

DATES: This rule takes effect on August 21, 2001.

ADDRESSES: States and Territories should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240. You may inspect comments during normal business hours in room 634, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Jonathan Andrew, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2001

On April 30, 2001, we published in the **Federal Register** (66 FR 21298) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 14, 2001, we published in the **Federal Register** (66 FR 32297) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 2001–02 duck hunting season. The June 14 supplement also provided detailed information on the 2001–02 regulatory schedule and announced the Service Migratory Bird Regulations Committee (SRC) and Flyway Council meetings.

On June 20–21, we held open meetings with the Flyway Council Consultants at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2001–02 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands, special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2001–02 regular waterfowl seasons. On July 24, we published in the **Federal Register** (66 FR 38494) a third document specifically dealing with the proposed frameworks for early-season regulations and the final regulatory alternatives for the 2001–02 duck hunting season. This document is the fourth in a series of proposed, supplemental, and final rulemaking documents. It establishes final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 2001–02 season. These selections will be published in the **Federal Register** as amendments to §§ 20.101 through 20.107, and § 20.109 of title 50 CFR part 20.

Review of Public Comments

The preliminary proposed rulemaking, which appeared in the April 30 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The public comment period for early-season issues ended on August 3, 2001. We have considered all pertinent comments received. Comments are summarized below and numbered in the order used in the April 30 **Federal Register**. We have included only the numbered items pertaining to early-seasons issues for which we received written comments. Consequently, the issues do not follow in direct numerical or alphabetical order. We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the Councils' annual review of the frameworks, we assume support for continuation of last year's frameworks for items for which we received no recommendation. Council recommendations for changes in the frameworks are summarized below.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) Harvest Strategy Considerations, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussion, and only those containing substantial recommendations are discussed below.

D. Special Seasons/Species Management

iii. September Teal Seasons

Council Recommendations: The Atlantic Flyway Council recommended that States that have participated in the recent experimental September teal seasons and met the required criteria (Delaware, Maryland, Virginia, and Georgia) be offered an operational September teal season, beginning in 2001. The recommended season would run for 9 consecutive days during September 1–30, with a bag limit not to exceed 4 teal, whenever the breeding population of blue-winged teal exceeds 3.3 million. Delaware, Georgia, and Virginia would have shooting hours between one-half hour before sunrise to sunset, while Maryland would be between sunrise and sunset. In a subsequent recommendation, the Council further recommended that the Service allow North Carolina and South Carolina to continue in the September teal season for the 2001 season due to the small sample size used in the evaluation of hunter performance within individual States, the recently released final evaluation report indicates that the estimate of attempts at non-target species pooled for all states is only 19 percent (below the 25 percent guideline), the Memorandum of Agreement with the Service does not preclude the option of using pooled evaluation data from all participating states in lieu of individual state data, pooling of data has been used in other flyways, North Carolina and South Carolina participation in the experimental September teal season is well within standards applied to these seasons in the Central and Mississippi Flyways, and is consistent with Service policy to manage special seasons on a regional or flyway basis.

The Atlantic Flyway Council also recommended that Florida be offered an operational September teal season. The Council pointed out that Florida has requested and would prefer

continuation of its current September teal/wood duck season, which the Council has previously supported. If the Service carries through with its intent to discontinue the current September teal/wood duck season, this recommendation would allow Florida's current season to be replaced by an operational September teal season. Florida's teal season would begin in 2001 and be structured similar to teal seasons offered in other Atlantic Flyway States (9 consecutive days during September 1–30, with a bag limit of no more than 4 teal), with shooting hours of one-half hour before sunrise to sunset, whenever the blue-winged teal breeding population exceeds 3.3 million.

The Central Flyway Council recommended continuation of the 16-day September teal season contingent upon acceptable May breeding population estimates of blue-winged teal (>4.7 million).

Written Comments: The North Carolina Wildlife Resources Commission and the South Carolina Department of Natural Resources requested that the Service reconsider its proposed decision to discontinue the special teal season in North Carolina. Both States pointed out several possible data analysis inconsistencies and requested further analysis of the 3-year experiment's data.

Service Response: We support the continuation of a 9-day special teal season in the Atlantic Flyway for the States of Delaware, Georgia, Maryland, North Carolina, South Carolina, and Virginia during 2001–02, until a final report on the 3-year experimental period is prepared and submitted. However, we suggest that States strive to reduce attempt rates at non-target species where possible. With regard to the Florida proposal, we support approval of an experimental 9-day special teal season for 2001–02, as requested in lieu of their teal/wood duck season. Assessment of the cumulative impacts of this season with those in other Atlantic Flyway States should be included in the final report. We recognize that hunter performance evaluations associated with species-specific seasons in Florida have already been conducted, so these requirements are waived.

We support continuation of the 16-day special teal season in the Central and Mississippi Flyways, since it is consistent with the harvest strategy adopted in 1998. We also note that we requested a report reviewing the data from the first 3 years and look forward to receiving the report next year.

iv. September Teal/Wood Duck Seasons

Council Recommendations: The Atlantic Flyway Council recommended that the daily bag limit for Florida's special September wood duck/ teal season remain at four wood ducks and teal in the aggregate.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that Kentucky's and Tennessee's September duck seasons be continued on an experimental basis for 3 years with increased monitoring. The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that Kentucky's and Tennessee's September duck seasons be given operational status in their current format under the early season regulations frameworks. As a condition of operational status, Kentucky and Tennessee would maintain wood duck population monitoring and banding efforts at levels consistent to that done during the period of the Wood Duck Initiative (1991–96).

Written Comments: The Florida Fish and Wildlife Conservation Commission requested that the daily bag limit for Florida's special September wood duck/ teal season remain at four wood ducks and teal in the aggregate.

Service Response: The Service grants operational status to September teal/ wood duck seasons in the States of Florida, Kentucky, and Tennessee. Operational status is contingent on the ability of the three States to continue with monitoring efforts put forth during the Wood Duck Initiative. The September teal/wood duck season in all three States will be a 5-day season, with a daily bag limit of four birds, no more than two of which can be wood ducks. We do not support Florida's request for a four wood duck daily bag limit due to concerns for low hen wood duck survival rates noted during the Initiative. With respect to expansion of this season to other States in the Southern and Southeastern Reference Areas, such States may avail themselves of a September teal/wood duck season in lieu of a September teal season, provided that population-monitoring programs throughout the respective Reference Area are in place and are meeting the requirements outlined in the final report of the wood duck Initiative. The monitoring requirements were developed in cooperation with the Atlantic and Mississippi Flyway Councils and their Technical Sections, and were unanimously adopted by the Councils.

v. Youth Hunt

Council Recommendations: The Atlantic Flyway Council recommended that the Service allow States to hold a youth waterfowl hunt on 2 consecutive hunting days.

Service Response: We concur.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended that the framework closing date for September Canada goose hunting seasons throughout upstate New York and Vermont be September 25, beginning in 2001, and that the September resident goose season framework dates in Rhode Island be extended from September 25 to September 30. The Council further recommended that the daily bag limit during September Canada goose seasons be increased to eight with no possession limit beginning with the 2001–02 hunting season.

The Upper-Region Regulations Committee of the Mississippi Flyway Council supported the development of comprehensive harvest management strategies for Canada geese throughout the Flyway that includes caution when expanding seasons impacting populations of concern as well as removing constraints when not warranted. The Lower-Region Regulations Committee of the Mississippi Flyway Council urged using caution in changing or expanding special goose seasons.

The Pacific Flyway Council recommended that the experimental portion (the period after September 15) of Northwest Oregon's September goose season related to the Pacific population of western Canada geese, be made operational.

Written Comments: The New York Division of Fish, Wildlife, and Marine Resources asked for reconsideration of an 8-bird daily bag limit with no possession limits during September Canada goose seasons in the Atlantic Flyway.

Service Response: We support the framework changes in New York, Vermont, and Rhode Island, and approve operational status for the season in Oregon after September 15. However, we do not support the Atlantic Flyway's recommended bag limit increase from 5 to 8 for these special seasons. The requested increase is in conflict with the previously established criteria for special Canada goose seasons (August 29, 1995, **Federal Register** (60 FR 45020); bag and possession limits of 5 and 10,

respectively). Additionally, this proposal did not gain support from the other Flyway Councils. We encourage further discussion within and among Councils regarding nationwide changes in bag limits. We also suggest that proposals of this nature be provided to the Service at the appropriate time during the review of the Environmental Impact Statement on management of resident Canada goose populations.

Regarding the Upper- and Lower-Region Regulation Committees' concern for cumulative impacts of special-season harvests on migrant Canada goose populations of concern, we are aware of the Committees' concern and are monitoring the harvests during these seasons.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended the 2001 regular goose season opening date be as early as September 16 throughout Michigan and Wisconsin and September 15 in Missouri and Iowa.

The Pacific Flyway Council recommended that the flyway-wide prohibition of take of Aleutian Canada geese be removed since publication of the final rule removing this goose from the List of Endangered and Threatened Species. Existing special management areas in Alaska, Oregon, and California will remain closed to take of Canada geese until a population objective and harvest strategy are established by the Council, as indicated in the Flyway Management Plan.

Service Response: We support the earlier regular Canada goose season opening dates in Michigan and Wisconsin. Both States were granted exceptions to the general framework opening date several years ago to assist with the management of migrant populations of Canada geese.

We do not support the Mississippi Flyway recommendation for moving the opening date of the regular Canada goose season to September 15 in Missouri and Iowa. These extensions are intended to increase pressure on resident geese. Past experience has indicated that seasons during September 1–15 generally are effective at targeting resident geese, but harvest in later seasons can comprise a higher proportion of non-target goose stocks. Additionally, we note that, under existing criteria for special Canada goose seasons, Missouri and Iowa have the option of holding seasons during September 1–15 without additional evaluation, or during September 16–30 with appropriate evaluations. We believe that these additional tools, which are already available to all States in the Flyway, should be used at the present time to address resident Canada goose impacts. We remain cautious regarding cumulative impacts of early seasons on some stocks of migrant geese. Furthermore, this change would require that regulations be promulgated during the early-season process, prior to the annual compilation of data on some migrant Canada goose populations; therefore, these regulations could be inconsistent with goose population status.

During the period when Aleutians were listed as either threatened or endangered, Statewide closures were imposed in all Pacific Flyway Coastal States. Since de-listing has occurred, the proposal would eliminate the Statewide closure requirements, but retain all existing closure zones established to specifically protect Aleutian Canada geese. In effect, this would remove blanket restrictions that included areas not used or rarely used by Aleutians. We expect impacts to be negligible and support the simplification of Canada goose hunting regulations in these States.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council made a number of recommendations pertaining to sandhill cranes. The Council recommended that the sandhill crane open hunting area boundary be changed in Texas and North Dakota for 3 years beginning in the fall of 2001 and population status, harvest, and distribution be evaluated using existing population and harvest surveys. The new hunt area in Texas would include the Gulf Coast, south of Corpus Christi Bay and north of Lavaca Bay. In North Dakota, the hunt boundary would be extended eastward from US Highway 281 to the Minnesota border. Season length in these two new areas would be a maximum of 37 days, and the daily bag limit would be two birds.

The Central Flyway Council also recommended a 95-day hunting season on Mid-Continent Population (MCP) sandhill cranes and reinstatement of the option to split the season into no more than two segments for Texas and Oklahoma.

The Central and Pacific Flyway Councils recommended a change to the current New Mexico SW hunt boundary to include those portions of Grant and Hidalgo Counties south of Interstate 25. The Councils further recommended allowing New Mexico to conduct an experimental 3-year sandhill crane season in the Estancia Valley located in portions of Torrance, Santa Fe, and Bernalillo Counties following the guidelines outlined in the Pacific and Central Flyways Management Plan for the Rocky Mountain Population of Greater Sandhill Cranes.

Service Response: We support the requested change to the open hunting area boundary in Texas and North Dakota for 3 years. The season length in these two new areas would be a maximum of 37 days, and the daily bag limit would be two birds. This proposal represents several years of negotiation among Service and State biologists and also contains a compromise that will allow for expansion in hunting opportunity while providing for evaluation of the biological impacts.

We do not support the proposal for a 95-day hunting season on MCP sandhill cranes and reinstatement of the option to split the season into no more than two segments for Texas and Oklahoma. We understand that the additional 2 days in season length (93 to 95 days) would allow for a split to be used and maintain a Sunday closing for each segment. While we do not believe that the additional days or one split would significantly increase harvest, we are concerned that specific guidelines regarding the use of this option and biological impacts under various types of seasons have not been developed and incorporated into the harvest strategy for this population. Differential impacts and harvest characteristics with the use of the split season options on subspecies, season length, chronology, etc., are unknown.

We concur with the Councils' recommendations regarding New Mexico.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended modification of Alaska's tundra swan frameworks to: (1) replace current harvest caps with maximum permit allowances (Unit 18–300, Unit 22–200, Unit 23–200); (2) make the swan season in Game Management Unit (GMU) 23 operational; and (3) establish a new experimental tundra swan season in GMU 17 (North Bristol Bay region). The new hunt would have a 61-day season from September 1–October 31; allow issuance of up to 200 registration permits, each permit to allow up to 3 swans per season and require reporting of hunter activity and harvest. The Council also recommended modification of Alaska's duck limit frameworks to include harlequin and long-tailed ducks in the special sea duck limit, with appropriate adjustment to retain current species limits.

Written Comments: An individual from Alaska request a number of specific actions related to sea-duck hunting and management. Specifically, she requested a reduction in bag and season limits on long-tailed (old-squaw) ducks, common and king eiders, harlequin ducks, and both common and barrows goldeneye. Additionally, she requested specific consideration of the differences between sea duck and dabbling duck biology be accommodated in the in the development of appropriate regulatory strategies for these species.

Service Response: We concur with the Council recommendations. Regarding the recommended duck bag limits, we point out that this change will result in an overall reduction in bag limit for these two species and a simplification of regulations. We share the concern about the population status and trend of many sea duck species. We have helped form a new sea duck Joint Venture under the North American Waterfowl Management Plan, designed to improve the information base needed to better manage these species. Although, the request is not specific to Alaska, we note that sea duck harvest is really only an issue in a few coastal States on both the Atlantic and Pacific coasts with Alaska the major harvest area on the west coast. We note, however, that sea duck sport harvest in Alaska, as a group, amounts to less than 10,000 birds in most years. This harvest is taken from a winter population estimated to exceed 500,000 birds. We do not believe such limited harvest from such a large population is causing or contributing to the population declines being observed in these species. However, we have made modifications to the Alaska's sea duck limits in recent years and are monitoring the results of these changes. We will continue to take differences in sea duck biology into account when determining bag limits and will make any necessary adjustments to ensure the long-term health and well being of these populations.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

We have considered provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and that the action is consistent with conservation programs for those species.

Executive Order (E.O.) 12866

This rule was reviewed by the Office of Management and Budget. The migratory bird hunting regulations are economically significant and are annually reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $429 million and $1.084 billion at small businesses in 1998. Copies of the Analysis are available upon request from the address indicated under the caption **ADDRESSES.**

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned clearance number 1018–0023 (expires 7/31/2003). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of harvest, and the portion it constitutes of the total population.

A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—E.O. 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Energy Effects—E.O. 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges, and, therefore, reduces restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended, (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season and option selections from these officials, we will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 2001–02 season.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Authority: The rules that eventually will be promulgated for the 2001–02 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: August 13, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Final Regulations Frameworks for 2001–02 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following frameworks, which prescribe season lengths, bag limits, shooting hours, and outside dates, within which States may select for certain migratory game birds between September 1, 2001, and March 10, 2002.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units

Mourning Dove Management Units

Eastern Management Unit—All States east of the Mississippi River, and Louisiana.

Central Management Unit—Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit—Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region—Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region—Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine,

Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, and Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway—Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia. All seasons are experimental.

Mississippi Flyway—Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, and Tennessee.

Central Flyway—Colorado (part), Kansas, Nebraska (part), New Mexico (part), Oklahoma, and Texas. The season in Nebraska is experimental.

Hunting Seasons and Daily Bag Limits: Not to exceed 9 consecutive days in the Atlantic Flyway and 16 consecutive days in the Mississippi and Central Flyways, except in Nebraska where the season is not to exceed 9 consecutive days. The daily bag limit is 4 teal.

Shooting Hours:

Atlantic Flyway—One-half hour before sunrise to sunset except in the States of Maryland and South Carolina, where the hours are from sunrise to sunset.

Mississippi and Central Flyways—One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Missouri, and Ohio, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky and Tennessee: In lieu of a special September teal season, a 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Iowa: Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks that are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 22). The daily bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process. The remainder of the regular duck season may not begin before October 10.

Special Youth Waterfowl Hunting Days

Outside Dates: States may select two consecutive days (hunting days in Atlantic Flyway States with compensatory days) per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limit may include ducks, geese, mergansers, coots, moorhens, and gallinules and would be the same as that allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult could not duck hunt but may participate in other seasons that are open on the special youth day.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15 and January 20.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate of the listed sea-duck species, of which no more than 4 may be scoters.

Daily Bag Limits During the Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated, and designated as special sea-duck hunting areas under the hunting regulations adopted by the respective States.

Special Early Canada Goose Seasons

Atlantic Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected for the Eastern Unit of Maryland and Delaware. Seasons not to exceed 20 days during September 1–20 may be selected for the Northeast Hunt Unit of North Carolina. Seasons not to exceed 30 days during September 1–30 may be selected by New Jersey. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway, except Georgia and Florida, where the season is closed. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Experimental Seasons

Experimental Canada goose seasons of up to 25 days during September 1–25 may be selected by the Montezuma Region of New York and the Lake Champlain Region of New York and Vermont. Experimental seasons of up to 30 days during September 1–30 may be selected by New York (Long Island Zone), North Carolina (except in the Northeast Hunt Unit), Rhode Island, and South Carolina. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Mississippi Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected, except in the Upper Peninsula in Michigan, where the season may not extend beyond September 10. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Experimental Seasons

An experimental Canada goose season of up to 7 consecutive days during

September 16–22 may be selected by Minnesota, except in the Northwest Goose Zone. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 10 consecutive days during September 1–10 may be selected by Michigan for Huron, Saginaw, and Tuscola Counties, except that the Shiawassee National Wildlife Refuge, Shiawassee River State Game Area Refuge, and the Fish Point Wildlife Area Refuge will remain closed. The daily bag limit may not exceed 2 Canada geese.

Central Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Experimental Seasons

An experimental Canada goose season of up to 14 consecutive days during September 16–29 may be selected by South Dakota. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 8 consecutive days during September 16–23 may be selected by Oklahoma. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 7 consecutive days during September 16–22 may be selected by North Dakota. The daily bag limit may not exceed 5 Canada geese.

Pacific Flyway

General Seasons

Wyoming may select an 8-day season on Canada geese between September 1–15. This season is subject to the following conditions:

1. Where applicable, the season must be concurrent with the September portion of the sandhill crane season.
2. All participants must have a valid State permit for the special season.
3. A daily bag limit of 3, with season and possession limits of 6, will apply to the special season.

Oregon may select a special Canada goose season of up to 15 days during the period September 1–15. In addition, in the NW goose management zone in Oregon, a 15-day season may be selected during the period September 1–20. Daily bag limits may not exceed 5 Canada geese.

Washington may select a special Canada goose season of up to 15 days during the period September 1–15. Daily bag limits may not exceed 5 Canada geese.

Idaho may select a 15-day season in the special East Canada Goose Zone, as described in State regulations, during the period September 1–15. All participants must have a valid State permit, and the total number of permits issued is not to exceed 110 for this zone. The daily bag limit is 2.

Idaho may select a 7-day Canada Goose Season during the period September 1–15 in Nez Perce County, with a bag limit of 4.

California may select a 9-day season in Humboldt County during the period September 1–15. The daily bag limit is 2.

Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Regular goose seasons may open as early as September 16 in Wisconsin and Michigan. Season lengths, bag and possession limits, and other provisions will be established during the late-season regulations process.

Sandhill Cranes

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of North Dakota (Area 2) and Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal sandhill crane hunting permit and/or, in those States where a Federal sandhill crane permit is not issued, a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting in their possession while hunting.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils with the following exceptions:

1. In Utah, the requirement for monitoring the racial composition of the harvest in the experimental season is waived, and 100 percent of the harvest will be assigned to the RMP quota;
2. In Arizona, the annual requirement for monitoring the racial composition of the harvest is changed to once every 3 years;
3. In Idaho, seasons are experimental, and the requirement for monitoring the racial composition of the harvest is waived; 100 percent of the harvest will be assigned to the RMP quota; and
4. In New Mexico, the season in the Estancia Valley is experimental, with a requirement to monitor the level and racial composition of the harvest; greater sandhill cranes in the harvest will be assigned to the RMP quota.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and January 20 in the Atlantic Flyway, and between September 1 and the Sunday nearest January 20 (January 20) in the Mississippi and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks, and no frameworks are provided in this document.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 20 on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits

Clapper and King Rails—In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails—In the Atlantic, Mississippi, and Central Flyways and the Pacific-Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Common Snipe

Outside Dates: Between September 1 and February 28, except in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 6 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 22) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 30 days in the Eastern Region and 45 days in the Central Region. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 24 days.

Band-tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2 band-tailed pigeons.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 30 consecutive days, with a daily bag limit of 5 band-tailed pigeons.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Mourning Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. The hunting seasons in the South Zones of Alabama, Florida, Georgia, and Louisiana, may commence no earlier than September 20. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited mourning dove season may be held concurrently with that special season (see white-winged dove frameworks).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 20 and January 25.

C. Each zone may have a daily bag limit of 12 doves (15 under the alternative) in the aggregate, no more than 2 of which may be white-tipped doves, except that during the special white-winged dove season, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

Hunting Seasons and Daily Bag Limits: Idaho, Nevada, Oregon, Utah, and Washington—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves (in Nevada, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate).

Arizona and California—Not more than 60 days, which may be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During the remainder of the season, the daily bag limit is restricted to 10 mourning doves. In California, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

White-winged and White-tipped Doves

Hunting Seasons and Daily Bag Limits

Except as shown below, seasons in Arizona, California, Florida, Nevada, New Mexico, and Texas must be concurrent with mourning dove seasons.

Arizona may select a hunting season of not more than 30 consecutive days, running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves.

In Florida, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate, of which no more than 4 may be white-winged doves.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

In New Mexico, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate.

In Texas, the daily bag limit may not exceed 12 doves (15 under the alternative) in the aggregate, of which not more than 2 may be white-tipped doves.

In addition, Texas may also select a hunting season of not more than 4 days

for the special white-winged dove area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of five zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. The hunting season is closed on emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone, they are 8 and 24, respectively. The basic limits may include no more than 1 canvasback daily and 3 in possession and may not include sea ducks.

In addition to the basic duck limits, Alaska may select sea duck limits of 10 daily, 20 in possession, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese—A basic daily bag limit of 3 and a possession limit of 6.

Dark Geese—A basic daily bag limit of 4 and a possession limit of 8.

Dark-goose seasons are subject to the following exceptions:

1. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16. A special, permit-only Canada goose season may be offered on Middleton Island. No more than 10 permits can be issued. A mandatory goose identification class is required. Hunters must check-in and check-out. Bag limit of 1 daily and 1 in possession. Season to close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

2. In Unit 10 (except Unimak Island), the taking of Canada geese is prohibited.

3. In Unit 9(D) and the Unimak Island portion of Unit 10, the limits for dark geese are 6 daily and 12 in possession.

Brant—A daily bag limit of 2.

Common snipe—A daily bag limit of 8.

Sandhill cranes—Bag and possession limits of 2 and 4, respectively, in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the Northern Zone. In the remainder of the Northern Zone (outside Unit 17), bag and possession limits of 3 and 6, respectively.

Tundra Swans—Open seasons for tundra swans may be selected subject to the following conditions:

1. All seasons are by registration permit only.

2. All season framework dates are September 1–October 31.

3. In Game Management Unit (GMU) 17, an experimental season may be selected. No more than 200 permits may be issued for this during the experimental season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season. An evaluation of the season must be completed, adhering to the guidelines for experimental seasons as described in the Pacific Flyway Management Plan for the Western Population of (tundra) Swans.

4. In Game Management Unit (GMU) 18, no more than 500 permits may be issued during the operational season. Up to 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

5. In GMU 22, no more than 300 permits may be issued during the operational season. Each permittee may be authorized to take up to 3 tundra swans per permit. No more than 1 permit may be issued per hunter per season.

6. In GMU 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida, mourning, and white-winged doves in the aggregate. Not to exceed 5 scaly-naped pigeons.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits

Ducks—Not to exceed 6.

Common moorhens—Not to exceed 6.

Common snipe—Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves, or pigeons in the Virgin Islands.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; Common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Mourning and White-winged Doves

Alabama

South Zone—Baldwin, Barbour, Coffee, Conecuh, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone—Remainder of the State.

California

White-winged Dove Open Areas—Imperial, Riverside, and San Bernardino Counties.

Florida

Northwest Zone—The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone—Remainder of State.

Georgia

Northern Zone—That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County; thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County, to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans County to U.S. Highway 301; thence northeast along U.S. Highway 301 to the South Carolina line.

South Zone—Remainder of the State.

Louisiana

North Zone—That portion of the State north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

South Zone—The remainder of the State.

Nevada

White-winged Dove Open Areas—Clark and Nye Counties.

Texas

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to Uvalde; south on U.S. 83 to TX 44; east along TX 44 to TX 16 at Freer; south along TX 16 to TX 285 at Hebbronville; east along TX 285 to FM 1017; southwest along FM 1017 to TX 186 at Linn; east along TX 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Area with additional restrictions—Cameron, Hidalgo, Starr, and Willacy Counties.

Central Zone—That portion of the State lying between the North and South Zones.

Band-tailed Pigeons

California

North Zone—Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone—The remainder of the State.

New Mexico

North Zone—North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone—Remainder of the State.

Washington

Western Washington—The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone—That portion of the State north of NJ 70.

South Zone—The remainder of the State.

Special September Canada Goose Seasons

Atlantic Flyway

Connecticut

North Zone—That portion of the State north of I–95.

Maryland

Eastern Unit—Anne Arundel, Calvert, Caroline, Cecil, Charles, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties, and those

portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Western Unit—Allegany, Carroll, Frederick, Garrett, Montgomery, and Washington Counties, and those portions of Baltimore, Howard, and Prince George's Counties west of I–95.

Massachusetts

Western Zone—That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone—That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of Massachusetts east and south of the Central Zone.

New York

Lake Champlain Zone—The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone—That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone—That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border, except for the Montezuma Zone.

Montezuma Zone—Those portions of Cayuga, Seneca, Ontario, Wayne, and Oswego Counties north of U.S. Route 20, east of NYS Route 14, south of NYS Route 104, and west of NYS Route 34.

Northeastern Zone—That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone—The remaining portion of New York.

North Carolina

Northeast Hunt Unit—Counties of Bertie, Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

South Carolina

Early-season Hunt Unit—Clarendon County and those portions of Orangeburg County north of SC Highway 6 and Berkeley County north of SC Highway 45 from the Orangeburg County line to the junction of SC Highway 45 and State Road S–8–31 and west of the Santee Dam.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: The remaining portion of Vermont.

Mississippi Flyway

Illinois

Northeast Canada Goose Zone—Cook, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties.

North Zone: That portion of the State outside the Northeast Canada Goose Zone and north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State outside the Northeast Canada Goose Zone and south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I–70, then east along I–70 to the Indiana border.

South Zone: The remainder of Illinois.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Minnesota

Twin Cities Metropolitan Canada Goose Zone—

A. All of Hennepin and Ramsey Counties.

B. In Anoka County, all of Columbus Township lying south of County State Aid Highway (CSAH) 18, Anoka County; all of the cities of Ramsey, Andover, Anoka, Coon Rapids, Spring Lake Park, Fridley, Hilltop, Columbia Heights, Blaine, Lexington, Circle Pines, Lino Lakes, and Centerville; and all of the city of Ham Lake except that portion lying north of CSAH 18 and east of U.S. Highway 65.

C. That part of Carver County lying north and east of the following described line: Beginning at the northeast corner of San Francisco Township; thence west along the north boundary of San Francisco Township to the east boundary of Dahlgren Township; thence north along the east boundary of Dahlgren Township to U.S. Highway 212; thence west along U.S. Highway 212 to State Trunk Highway (STH) 284; thence north on STH 284 to County State Aid Highway (CSAH) 10;

thence north and west on CSAH 10 to CSAH 30; thence north and west on CSAH 30 to STH 25; thence east and north on STH 25 to CSAH 10; thence north on CSAH 10 to the Carver County line.

D. In Scott County, all of the cities of Shakopee, Savage, Prior Lake, and Jordan, and all of the Townships of Jackson, Louisville, St. Lawrence, Sand Creek, Spring Lake, and Credit River.

E. In Dakota County, all of the cities of Burnsville, Eagan, Mendota Heights, Mendota, Sunfish Lake, Inver Grove Heights, Apple Valley, Lakeville, Rosemount, Farmington, Hastings, Lilydale, West St. Paul, and South St. Paul, and all of the Township of Nininger.

F. That portion of Washington County lying south of the following described line: Beginning at County State Aid Highway (CSAH) 2 on the west boundary of the county; thence east on CSAH 2 to U.S. Highway 61; thence south on U.S. Highway 61 to State Trunk Highway (STH) 97; thence east on STH 97 to the intersection of STH 97 and STH 95; thence due east to the east boundary of the State.

Northwest Goose Zone—That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Southeast Goose Zone—That part of the State within the following described boundaries: beginning at the intersection of U.S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along the U.S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the State; thence along the south and east boundaries of the State to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

Five Goose Zone—That portion of the State not included in the Twin Cities Metropolitan Canada Goose Zone, the Northwest Goose Zone, or the Southeast Goose Zone.

West Zone—That portion of the State encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

Tennessee

Middle Tennessee Zone—Those portions of Houston, Humphreys, Montgomery, Perry, and Wayne Counties east of State Highway 13; and Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Moore, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, and Wilson Counties.

East Tennessee Zone—Anderson, Bledsoe, Bradley, Blount, Campbell, Carter, Claiborne, Clay, Cocke, Cumberland, DeKalb, Fentress, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White Counties.

Wisconsin

Early-Season Subzone A—That portion of the State encompassed by a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Early-Season Subzone B—The remainder of the State.

Central Flyway

Kansas

September Canada Goose Kansas City/Topeka Unit—That part of Kansas bounded by a line from the Kansas-Missouri State line west on K–68 to its junction with K–33, then north on K–33 to its junction with US–56, then west on US–56 to its junction with K–31, then west-northwest on K–31 to its junction with K–99, then north on K–99 to its junction with US–24, then east on US–24 to its junction with K–63, then north on K–63 to its junction with K–16, then east on K–16 to its junction with K–116, then east on K–116 to its junction with US–59, then northeast on US–59 to its junction with the Kansas-Missouri line, then south on the Kansas-Missouri line to its junction with K–68.

September Canada Goose Wichita Unit—That part of Kansas bounded by a line from I–135 west on US 50 to its junction with Burmac Road, then south on Burmac Road to its junction with 279 Street West (Sedgwick/Harvey County line), then south on 279 Street West to its junction with K–96, then east on K–96 to its junction with K–296, then south on K–296 to its junction with 247 Street West, then south on 247 Street West to its junction with US–54, then west on US–54 to its junction with 263 Street West, then south on 263 Street West to its junction with K–49, then south on K–49 to its junction with 90 Avenue North, then east on 90 Avenue North to its junction with KS–55, then east on KS–55 to its junction with KS–15, then east on KS–15 to its junction with US–77, then north on US–77 to its junction with Ohio Street, then north on Ohio to its junction with KS–254, then east on KS–254 to its junction with KS–196, then northwest on KS–196 to its junction with I–135, then north on I–135 to its junction with US–50.

South Dakota

September Canada Goose North Unit—Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, and Roberts County.

September Canada Goose South Unit—Beadle, Brookings, Hanson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, and Turner Counties.

Pacific Flyway

Idaho

East Zone—Bonneville, Caribou, Fremont, and Teton Counties

Oregon

Northwest Zone—Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties.

Southwest Zone—Coos, Curry, Douglas, Jackson, Josephine, and Klamath Counties.

East Zone—Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, and Wasco Counties.

Washington

Area 1—Skagit, Island, and Snohomish Counties.

Area 2A (SW Quota Zone)—Clark County, except portions south of the Washougal River; Cowlitz, and Wahkiakum counties.

Area 2B (SW Quota Zone)—Pacific and Grays Harbor counties.

Area 3—All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4—Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5—All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Farson-Eden Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

Teton Area—Those portions of Teton County described in State regulations.

Bridger Valley Area—The area described as the Bridger Valley Hunt Unit in State regulations.

Ducks

Atlantic Flyway

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Mississippi Flyway

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Central Flyway

Colorado

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of a line extending east from the Wyoming border, south along U.S. 85 to I–76, south along I–76 to I–25, south along I–25 to the New Mexico border.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic County Road 563 to KS 148, east along KS 148 to Republic County Road 138, south along Republic County Road 138 to Cloud County Road 765, south along Cloud County Road 765 to KS 9, west along KS 9 to U.S. 24, west along U.S. 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I–135, south along I–135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Nebraska

Special Teal Season Area: That portion of the State south of a line beginning at the Wyoming State line; east along U.S. 26 to Nebraska Highway L62A; east to U.S. 385; south to U.S. 26; east to NE 92; east along NE 92 to NE 61; south along NE 61 to U.S. 30; east along U.S. 30 to the Iowa border.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

Pacific Flyway

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of the Klamath River with the California-Oregon line; south and west along the Klamath River to the mouth of Shovel Creek; along Shovel Creek to its intersection with Forest Service Road 46N05 at Burnt Camp; west to its junction with Forest Service Road 46N10; south and east to its Junction with County Road 7K007; south and west to its junction with Forest Service Road 45N22; south and west to its junction with Highway 97 and Grass Lake Summit; south along to its junction with Interstate 5 at the town of Weed; south to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada state line; north along the California-Nevada state line to the junction of the California-Nevada-Oregon state lines west along the California-Oregon line state to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Canada Geese

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Sandhill Cranes

Central Flyway

Colorado

The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

New Mexico

Regular-Season Open Area—Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Middle Rio Grande Valley Area—The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area—Those portions of Santa Fe, Torrance and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone—Sierra, Luna, Dona Ana Counties, and those portions of Grant and Hidalgo Counties south of I–10.

Oklahoma

That portion of the State west of I–35.

Texas

Area 1—That portion of the State west of a line beginning at the International Bridge at Laredo, north along I–35 to the Oklahoma border.

Area 2—That portion of the State east and south of a line from the International Bridge at Laredo northerly along I–35 to U.S. 290; southeasterly along U.S. 290 to I–45; south and east on I–45 to State Highway 87, south and east on TX 87 to the channel in the Gulf of Mexico between Galveston and Point Bolivar; EXCEPT: That portion of the State lying within the area bounded by the Corpus Christi Bay Causeway on U.S. 181 at Portland; north and west on U.S. 181 to U.S. 77 at Sinton; north and east along U.S. 77 to U.S. 87 at Victoria; east and south along U.S. 87 to Texas Highway 35; north and east on TX 35 to the west end of the Lavaca Bay Bridge; then south and east along the west shoreline of Lavaca Bay and Matagorda Island to the Gulf of Mexico; then south and west along the shoreline of the Gulf of Mexico to the Corpus Christi Bay Causeway.

North Dakota

Area 1—That portion of the State west of U.S. 281.

Area 2—That portion of the State east of U.S. 281.

South Dakota

That portion of the State west of U.S. 281.

Montana

The Central Flyway portion of the State except that area south of I–90 and west of the Bighorn River.

Wyoming

Regular-Season Open Area—Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Riverton-Boysen Unit—Portions of Fremont County.

Park and Big Horn County Unit—Portions of Park and Big Horn Counties.

Pacific Flyway

Arizona

Special-Season Area—Game Management Units 30A, 30B, 31, and 32.

Montana

Special-Season Area—See State regulations.

Utah

Special-Season Area—Rich and Cache Counties and that portion of Box Elder County beginning on the Utah-Idaho State line at the Box Elder-Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder-Weber County line; east on the Box Elder-Weber County line to the Box Elder-Cache County line; north on the Box Elder-Cache County line to the Utah-Idaho State line.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Eden-Farson Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

All Migratory Game Birds in Alaska

North Zone—State Game Management Units 11–13 and 17–26.

Gulf Coast Zone—State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone—State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone—State Game Management Unit 10 (except Unimak Island).

Kodiak Zone—State Game Management Unit 8.

All Migratory Birds in the Virgin Islands

Ruth Cay Closure Area—The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area—All of the municipality of Culebra.

Desecheo Island Closure Area—All of Desecheo Island.

Mona Island Closure Area—All of Mona Island.

El Verde Closure Area—Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and Adjacent Areas—All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

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Federal Register

Vol. 66, No. 162

Tuesday, August 21, 2001

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FEDERAL REGISTER PAGES AND DATE, AUGUST

39615–40106 1
40107–40572 2
40573–40838 3
40839–41128 6
41129–41438 7
41439–41754 8
41755–42104 9
42105–42412 10
42413–42597 13
42587–42728 14
42729–42928 15
42929–43064 16
43065–43460 17
43461–43760 20
43761–44024 21

CFR PARTS AFFECTED DURING AUGUST

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

Executive Orders:
12722 (See Notice of July 31, 2001) 40105
12724 (See Notice of July 31, 2001) 40105
13221.....40571
Administrative Orders:
Presidential Determinations:
No. 2001-22 of July 26, 2001 40107
Notices:
Notice of July 31, 2001 40105

5 CFR

1650.....43461

7 CFR

301 .....40573, 40923, 41439, 43065
457.....42729
916.....39615
917.....39615
924.....42413
959.....39621
989.....39623
1744.....41755
1755.....43310, 43314
Proposed Rules:
56.....42456
58.....42458
70.....42456
246.....40152
911.....40923
916.....39690
944.....40845, 40923
948.....40153, 40155
966.....40158
993.....43534
1205.....42464
1230.....42469

8 CFR

212.....42587
214.....42587
245.....42587
248.....42587
274a.....42587
Proposed Rules:
103.....41456

9 CFR

54.....43964
79.....43964
94.....42595
95.....42595
130.....39628
317.....40843
381.....40843
Proposed Rules:
317.....41160
327.....41160, 42472

10 CFR

72.....43761
Proposed Rules:
50.....40626
72.....43810
430.....43123

12 CFR

202.....41439
205.....41439
208.....42929
213.....41439
226.....41439, 43463
230.....41439
709.....40574
712.....40575
721.....40845
749.....40578
Proposed Rules:
611.....43536
614.....43536
701.....40641
702.....40642
741.....40642
925.....41462, 43961
930 .....41462, 41474, 43961
931.....41462, 43961
932 .....41462, 41474, 43961
933.....41462, 43961

14 CFR

23.....40580
39 .....39632, 40109, 40582, 40850, 40860, 40863, 40864, 40867, 40869, 40870, 40872, 40874, 40876, 40878, 40880, 40893, 41129, 41440, 41443, 42105, 42586, 42937, 42939, 43066, 43068, 43070, 43072, 43074, 43076, 43463, 43465, 43467, 43471, 43475, 43763, 43766, 43768, 43770
71 .....42107, 42108, 43078, 43079, 43080
91.....41088
95.....39633
97.....41772, 41774
121 .....41088, 41955, 41959
135.....41088
145.....41088
187.....43680
Proposed Rules:
39 .....40161, 40162, 40645, 40646, 40926, 41808, 42970, 43124, 43126, 43128, 43130, 43811, 43814, 43815
71 .....42618, 42619, 43121
121.....42807
139.....42807

15 CFR

734 42108
740 42108

Proposed Rules:

922 43135

16 CFR

305 40110
1700 40111

Proposed Rules:

314 41162
1500 39692

17 CFR

1 ..... 41131, 42256
3 43080
5 42256
15 42256
36 42256
37 42256
38 42256
40 ..... 42256, 42289
41 ..... 42256, 43083
100 42256
140 43080
166 42256
170 ..... 42256, 43080
180 42256
200 ..... 40885, 43720
202 43721
232 42941
240 43721
249 43721

18 CFR

Proposed Rules:

2 40929
35 40929
37 40929

19 CFR

Proposed Rules:

12 42163
113 42163
122 40649
123 40649
151 42163
162 42163

20 CFR

656 40584

Proposed Rules:

404 43136
422 43136

21 CFR

510 43773
520 43773
524 42730
606 40886
640 40886
1308 42943
1310 42944

Proposed Rules:

500 42167
874 42809

22 CFR

Ch. XIII 42731
62 43087

24 CFR

887 42731

Proposed Rules:

903 42926

25 CFR

151 42415

Proposed Rules:

151 42474
502 41810

26 CFR

1 ..... 40590, 41133
31 39638
40 41775
301 ..... 41133, 41778
602 43478

Proposed Rules:

1 ..... 40659, 41169
5c 41170
5f 41170
18 41170
301 ..... 41169, 41170

27 CFR

1 42731
4 42731
5 42731
7 42731
12 42731
17 42735
18 42735
19 ..... 42731, 42735
20 ..... 42731, 42735
22 ..... 42731, 42735
24 ..... 42731, 42735
25 42735
29 42735
40 ..... 42731, 43478
44 43478
46 43478
55 42731
70 ..... 42731, 42735, 43478
71 42731
170 42735
178 ..... 40596, 42586
179 ..... 40596, 42586
200 42731
275 42731
290 ..... 42731, 43478

28 CFR

16 ..... 41445, 43308

29 CFR

4022 42737
4044 42737

30 CFR

904 42739
914 42743
938 42750
946 43480

Proposed Rules:

913 42813
917 42815

32 CFR

199 40601
311 41779
323 41780
326 41783

Proposed Rules:

199 39699
320 41811
326 43138
505 ..... 41814, 43818
701 43141
806b 43820

33 CFR

100 ..... 41137, 41138, 41140, 41141, 41142
117 ..... 40116, 40117, 40118, 41144, 42110, 42601, 42602
164 42753
165 ..... 40120, 41784, 41786, 41787, 42602, 42604, 42753, 42755, 42946, 42948, 43088, 43774, 43776

Proposed Rules:

117 42972
157 42170
165 41170
334 ..... 42475, 42477, 42478

34 CFR

674 44006
682 44006
685 44006

36 CFR

211 43778

Proposed Rules:

1228 40166

37 CFR

202 40322

38 CFR

21 42586

Proposed Rules:

3 41483
19 40942
20 40942

39 CFR

20 42112
266 40890

Proposed Rules:

111 ..... 40663, 41485, 42817, 42820

40 CFR

9 ..... 40121, 42122
51 40609
52 ..... 40137, 40609, 40616, 40891, 40895, 40898, 40901, 41789, 41793, 42123, 42126, 42128, 42133, 42136, 42415, 42418, 42425, 42427, 42605, 42756, 42949, 42956, 43484, 43485, 43488, 43492, 43497, 43502, 43779, 43783, 43788, 43795, 43796, 43797
60 ..... 42425, 42427, 42608
61 ..... 42425, 42427
62 ..... 41146, 42425, 42427, 43509
63 ..... 40121, 40903, 41086
70 ..... 40901, 42439
271 43798
72 42761
81 40908
96 40609
97 40609
300 43806
180 ..... 39640, 39648, 39651, 39659, 39666, 39675, 40140, 40141, 41446, 42761, 42765, 42772, 42776, 42957
258 42441
261 ..... 41796, 43054
271 ..... 40911, 42140, 42962
300 ..... 40912, 42610

Proposed Rules:

9 41817
52 ..... 40168, 40664, 40802, 40947, 40947, 40953, 41174, 41486, 41822, 41823, 42172, 42185, 42186, 42187, 42479, 42487, 42488, 42620, 42831, 42974, 43549, 43550, 43552, 43822, 43823
60 42488
61 42488
62 ..... 41176, 42488, 43552
63 ..... 40166, 40324, 41664, 43141, 43142
70 ..... 40953, 42490, 42496
81 ..... 40953, 42187
86 40953
122 41817
123 41817
124 41817
130 41817
141 42974
142 42974
153 40170
174 43552
180 ..... 39705, 39709, 40170
260 42193
261 ..... 42193, 43823
262 42193
263 42193
264 ..... 42193, 43142
265 ..... 42193, 43142
266 43142
270 43142
271 ..... 42193, 42194, 42975, 43143, 43831
281 40954
300 ..... 40957, 41177, 41179, 42620, 43831
721 ..... 42976, 42978

42 CFR

400 43090
405 39828
410 39828
412 ..... 39828, 41316
413 ..... 39828, 41316
430 43090
431 43090
434 43090
435 43090
438 43090
440 43090
447 43090
482 39828
485 39828
486 39828

Proposed Rules:

400 43614
405 40372
410 40372
411 40372
414 40372
415 40372
430 43614
431 43614
434 43614
435 43614
438 43614
440 43614
447 43614

43 CFR

3160 41149

44 CFR

62 40916

64 43091
65 43095
67 42146
Proposed Rules:
67 ....41182, 41186
204 39715

45 CFR

672 42450
673 42450

46 CFR

4 ....41955, 42964
5 ....41955, 42964
16 ....41955, 42964
502 43511
Proposed Rules:
221 40664

47 CFR

0 42552
51 43516
54 41149
63 41801
68 ....42779, 42780
73 ....39682, 39683, 42612
Proposed Rules:
51 42499
63 41823
64 40666
73 ....39726, 39727, 40174, 40958, 40959, 40960, 41489, 41490, 42621, 42622, 42623

48 CFR

1822 41804
1845 41805
1852 41805
Proposed Rules:
2 42922
17 42922
27 42102
31 40838
33 42922
49 42922
52 ....42102, 42922

49 CFR

40 ....41944, 41955
192 43523
195 43523
199 41955
219 ....41955, 41969
232 39683
382 ....41955, 43097
541 40622
571 ....42613, 43113
578 41149
653 ....41955, 41996
654 ....41955, 41996
655 ....41955, 41996
Proposed Rules:
71 40666
171 40174
172 41490
173 40174
174 40174
175 40174
176 40174
177 40174
178 40174
2009 42352
234 42352
236 42352
544 41190
571 ....40174, 42982, 42985

50 CFR

17 43808
20 44010
216 43442
229 42780
300 42154
635 ....40151, 42801, 42805
648 ....41151, 41454, 42156, 43122
660 ....40918, 41152, 42453
679 ....41455, 41806, 42455, 42969, 43524
Proposed Rules:
14 43554
17 ....40960, 42318, 43145
20 42712
84 43555
223 ....40176, 42499, 43150
224 42499
226 42499
600 42832
622 40187
660 40188
679 ....41718, 42833
697 42832

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 AUGUST 21, 2001

AGRICULTURE DEPARTMENT

Forest Service

Administration:

National Forest System; appeal of decisions; obsolete rules removed; published 8-21-01

EDUCATION DEPARTMENT

Postsecondary education:

Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program; published 8-21-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Ponazuril paste; published 8-21-01

Sponsor name and address changes—

Orion Corp. ORION-FARMOS; published 8-21-01

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Alabama lampmussel, etc. (16 freshwater mussels and 1 freshwater snail); nonessential experimental population status establishment in Tennessee River—

Correction; published 8-21-01

Migratory bird hunting:

Seasons, limits, and shooting hours; establishment, etc.; published 8-21-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 8-6-01

Boeing; published 8-6-01

Bombardier; published 8-6-01

Fokker; published 8-6-01

Gulfstream; published 7-17-01

Israel Aircraft Industries, Ltd.; published 8-6-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in—

Michigan et al.; comments due by 8-30-01; published 7-31-01

Hass Avocado Promotion, Research, and Consumer Information Order; industry-funded research, promotion and information program; comments due by 8-27-01; published 7-13-01

Hass Avocado Promotion, Research, and Information Order; referendum procedures; comments due by 8-27-01; published 7-13-01

Nectarines grown in—

California; comments due by 8-31-01; published 8-1-01

Raisins produced from grapes grown in—

California; comments due by 8-31-01; published 8-1-01

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Conservation operations:

Private grazing land resources; technical assistance; comments due by 8-28-01; published 6-29-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Atlantic Ocean and Gulf of Mexico; sea turtle interactions with fishing activities; environmental impact statement; comments due by 8-30-01; published 7-31-01

Fishery conservation and management:

Atlantic coastal fisheries cooperative management—

Horeshoe crabs; comments due by 8-30-01; published 8-15-01

West Coast States and Western Pacific fisheries—

Salmon; comments due by 8-28-01; published 8-13-01

Western Pacific Community Development Program and western Pacific demonstration projects; eligibility criteria and definitions; comments due by 8-27-01; published 7-27-01

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:

State operating permits programs—

Alaska; comments due by 8-27-01; published 7-26-01

Alaska; comments due by 8-27-01; published 7-26-01

Florida; comments due by 8-31-01; published 7-2-01

Indiana; comments due by 8-29-01; published 7-30-01

Air pollution control; new motor vehicles and engines:

Light-duty vehicles and trucks and heavy duty vehicles and engines; on-board diagnostic systems and emission-related repairs; comments due by 8-27-01; published 8-6-01

Air quality implementation plans; approval and promulgation; various States:

Maryland; comments due by 8-30-01; published 7-31-01

New Hampshire; comments due by 8-27-01; published 7-27-01

Air quality planning purposes; designation of areas:

Oregon; comments due by 8-27-01; published 7-26-01

Hazardous waste:

Identification and listing—

Exclusions; comments due by 8-27-01; published 7-13-01

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Bifenazate; comments due by 8-28-01; published 6-29-01

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 8-29-01; published 7-30-01

National priorities list update; comments due by 8-29-01; published 7-30-01

National priorities list update; comments due by 8-29-01; published 7-30-01

National priorities list update; comments due by 8-29-01; published 7-30-01

Water pollution control:

Marine sanitation devices—

Florida Keys National Marine Sanctuary, FL; no discharge zone; comments due by 8-27-01; published 7-26-01

Water pollution; effluent guidelines for point source categories:

Coal mining; comments due by 8-29-01; published 7-30-01

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Individuals with hearing and speech disabilities; telecommunications relay services

Correction; comments due by 8-30-01; published 8-3-01

Radio frequency devices:

Spread spectrum systems operating in 2.4 GHz band; spectrum sharing and new digital transmission technologies introduction; comments due by 8-27-01; published 6-12-01

Radio stations; table of assignments:

Texas; comments due by 8-27-01; published 7-19-01

Television stations; table of assignments:

Kentucky; comments due by 8-27-01; published 7-18-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Topical antifungal products (OTC); final monograph amendment; comments due by 8-27-01; published 5-29-01

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Mortgage and loan insurance programs:

Multifamily housing programs; mortgage

insurance premiums; comments due by 8-31-01; published 7-2-01

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Kentucky; comments due by 8-30-01; published 8-15-01

JUSTICE DEPARTMENT

DNA Analysis Backlog Elimination Act of 2000; implementation; comments due by 8-27-01; published 6-28-01

STATE DEPARTMENT

Visas; immigrant documentation:

Diversity Immigration Program; comments due by 8-30-01; published 7-31-01

TRANSPORTATION DEPARTMENT

Coast Guard

Boating safety:

Personal flotation devices for children; Federal requirements for wearing aboard recreational vessels; comments due by 8-29-01; published 5-1-01

Pollution:

Vessels carrying oil in bulk; double hull standards; U.S. position on international standards amendment for phase-out of existing single hull tank vessels

Meeting; comments due by 9-1-01; published 8-10-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; comments due by 8-27-01; published 6-27-01

British Aerospace; comments due by 8-30-01; published 7-18-01

Eurocopter France; comments due by 8-27-01; published 6-27-01

Raytheon; comments due by 8-30-01; published 7-11-01

Class E airspace; comments due by 8-30-01; published 7-16-01

TREASURY DEPARTMENT

Comptroller of the Currency

Bank activities and operations:

Electronic banking; comments due by 8-31-01; published 7-2-01

VETERANS AFFAIRS DEPARTMENT

Construction or acquisition of State homes; grants to States; comments due by 8-27-01; published 6-26-01

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 2213/P.L. 107–25

To respond to the continuing economic crisis adversely affecting American agricultural producers. (Aug. 13, 2001; 115 Stat. 201)

H.R. 2131/P.L. 107–26

To reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, and for other purposes. (Aug. 17, 2001; 115 Stat. 206)

Last List August 7, 2001

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