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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

RIN 0584–AC25

National School Lunch Program and School Breakfast Program: Alternatives to Standard Application and Meal Counting Procedures

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing the procedures for determining eligibility for free and reduced price meals in the National School Lunch Program and the School Breakfast Program. Regulations provide school food authorities with two alternatives to the standard requirements for the annual determinations of eligibility for free and reduced price school meals and daily meal counts by type, commonly termed ''Provision 1'' and ''Provision 2''. This final rule allows for an extension of Provision 2 procedures and provides a new alternative, ''Provision 3''. For schools choosing to participate in one of the alternate eligibility determination and meal counting procedures, this final rule codifies the alternate counting and claiming provisions of Public Law 103–448 which have been implemented, and revisions to the counting and claiming provisions authorized by Public Laws 104–193 and 105–336. This final rule streamlines program operations for program administrators and participants. State agency and school food authority recordkeeping burdens are expected to decrease because the determinations of eligibility for free and reduced price meals will not be made as frequently. In addition, for those schools electing to participate, this final rule may increase participation in nutritious school meal programs, thereby helping students develop lifelong healthy eating habits. A primary reason for the expected increase in participation is that schools under Provision 2 and Provision 3 would be offering meals at no charge to all enrolled students.

EFFECTIVE DATE: October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302, ph. (703) 305–2620.

SUPPLEMENTARY INFORMATION: On February 7, 2000, The U.S. Department of Agriculture (the Department or ''we'') published a proposed rule at 65 FR 5791 to amend 7 CFR part 245 to include changes and additions to the alternatives to standard eligibility determination and meal counting procedures. The February 7, 2000 rule proposed changes to Provision 2, which is codified in 7 CFR part 245, and proposed to codify Provision 3. These changes were necessitated by Public Law 103–448, Public Law 104–193 and Public Law 105–336. For further information on these statutory changes, refer to the proposed rule referenced above.

We received 12 comments on the proposed rule during the 60-day comment period. The majority of commenters approved of the proposed changes, while many also suggested changes or requested clarification in the final rule. Comments were received from local school food authorities, State agencies, advocacy associations and the general public. Several of the commenters addressed issues and concerns that affect both Provision 2 and Provision 3. The remainder of this preamble discusses the changes and clarifications which are being made in the final rule as a result of the comments.

To the extent that a comment generated revisions to both provisions, we address those revisions to the proposed rule under a single paragraph. For example, commenters suggested changes to the proposed streamlined base year. Therefore, in the preamble we provide information regarding changes to the streamlined base year for both Provision 2 and Provision 3 and reference the respective paragraph citations. Other revisions that affect only one of the provisions will be discussed under the heading of the respective provision.

Readers will note that this preamble addresses changes to Provision 2 and Provision 3 as they were proposed. To the extent that no changes were made to the proposed regulatory text, the final rule adopts the provisions as proposed.

Section 245.9 Special Assistance Certification and Reimbursement Alternatives

General Comments and Clarifications

Throughout the proposal, we referenced meal counts at the point of service. For both provisions, point of service meal counts were referenced during the conduct of the base year and as part of the procedures required during non-base years. One commenter questioned whether the reference to ''point of service'' throughout the proposed rule was intended to preclude approved alternates to meal counts taken at the point of service. We did not intend to preclude approved alternates to point of service meal counts, therefore when referencing meal counts, this final rule clarifies that alternate point of service counts as authorized by 7 CFR part 210 are acceptable.

In accordance with section 11 of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1759a), the proposed rule set forth a Provision 2 and Provision 3 cycle which, while similar, are not identical. The cycle is 4 years in duration for both provisions. However, the base year for Provision 2 was included as part of the 4-year cycle while the base year for Provision 3 immediately preceded the 4-year cycle. Three commenters recommended that the Provision 2 and Provision 3 cycles be revised so that the base years are treated in a similar manner. Because the basis for the difference between the Provision 2 and Provision 3 base years is statutory, the Department is unable to make the provisions identical regarding the base year and subsequent cycle. Thus, the final rule retains the difference between the Provision 2 and Provision 3 base year as it relates to the 4-year cycle.

Specific Provisions

Proposed § 245.9(b) Provision 2, restated the introductory language for the Provision 2 requirements in current regulations and added a definition of

''base year'' which did not specify when a school must begin a base year. However, proposed paragraph (b)(3)(ii) Annual percentages, would have required a base year to be a full school year, or the equivalent number of months if a school started the provision at a point in time other than the beginning of a school year. Taken together, these two sections of the proposed rule would have permitted a base year to be initiated at any time during the school year, provided that the base year encompassed the equivalent number of months as a full school year. The Department originally allowed schools to begin a mid-year implementation in order to accommodate statutory changes. This flexibility allowed schools time to learn about the changes and implement them during the same school year.

Several commenters objected to a base year covering more than one school year and suggested that the option to implement Provision 2 and Provision 3 must be exercised at the beginning of the school year.

In recognition of commenter concerns, this final rule requires the base year to begin at the start of the school year. However, in recognition of the difficulty in securing completed applications, this final rule would permit, at State agency discretion, a delayed implementation of the Provision 2 base year not to exceed the first claiming period of the school year in which the base year is established. Delayed implementation would permit schools to charge participating students for reduced price and paid meals in the first claiming period of the base year. Such schools would convert the meal counts, by type, for the remaining months of operation in the Provision 2 base year, when all meals were served at no charge, into annual claiming percentages. These claiming percentages would be applied to the first claiming period for all non-base years of the cycle plus any extensions. To accommodate these changes, a new paragraph (b)(6) was added and the description of base year proposed in paragraph (b) was moved to paragraph (b)(6) of this final rule.

Section 245.9(b)(1) for Provision 2 and § 245.9(d)(1) for Provision 3, Free meals, of the proposed rule stipulated that Provision 2 and Provision 3 schools must serve reimbursable meals, as determined by a point of service observation, to all students at no charge. Two commenters expressed concern that using the term ''Free meals'' in the heading could cause people to confuse meals served under Provision 2 or Provision 3 with free meals served to eligible students and the subsequent higher level of Federal reimbursement provided for such meals. The Department agrees with commenters that the potential for confusion exists, therefore, this final rule adopts paragraph (b)(1) as proposed, but the title ''Free meals'' is replaced with the title, ''Meals at no charge''.

Proposed § 245.9(b)(3)(i), Monthly percentages and § 245.9(b)(3)(ii), Annual percentages, included a description of the procedures to calculate monthly claiming percentages and added a description of a new option to allow annual claiming percentages for Provision 2 schools. Eight commenters supported the option of annual claiming percentages for schools operating under Provision 2. One commenter suggested clarifying that only reimbursable student meals may be included in the calculation. This final rule adopts the monthly and optional annual claiming percentages as proposed, with minor editorial changes, and clarifies that only reimbursable student meals are included in the calculation of monthly and annual claiming percentages.

Two commenters suggested allowing school food authority-wide claiming percentages for Provision 2 when all schools in a school food authority operate under the Provision. We fully considered this option. However, the blending of data to establish school food authority-wide claiming percentages would not properly allocate Federal funds. By blending the data from two or more Provision 2 sites, each sites' numbers would be weighted for their contribution toward the claiming percentages. For example, if two Provision 2 schools were to blend their data with one school serving 800 meals a day and one school serving 200 meals a day, the data from the school which served 800 meals a day would be given more weight than the school serving 200 meals a day. During the non-base years as each of these schools experience changes in the enrollment and participation, the weighting of the base year data would no longer reflect each schools' contribution to the single claiming percentage resulting in an inappropriate loss or gain of Federal reimbursement during non-base years. Therefore, this final rule does not include a provision for school food authority-wide claiming percentages.

As a result of questions raised by commenters, two new paragraphs appear under paragraph (b) Provision 2 and paragraph (d) Provision 3 of this final rule. Newly added paragraphs (b)(4) and (d)(6) address the claims review process and newly added paragraphs (b)(5) and (d)(7) address verification.

One commenter questioned whether edit checks were required in non-base years and, further, suggested that edit checks are not relevant during non-base years. We believe that a system of internal controls is critical to the integrity of the programs. Currently, § 210.8(a)(2) requires school food authorities to review lunch count data for each school under its jurisdiction to ensure the accuracy of the monthly Claim for Reimbursement. Specifically, § 210.8(a)(2) permits any school food authority that was found, during its most recent administrative review, to have no meal counting and claiming violations to develop internal controls that ensure accurate meal counts. School food authorities found to have meal count problems are required to follow specific edit check procedures. We agree with the commenter to the degree that edit checks *by type* (free, reduced price and paid) are not relevant during the non-base years of Provision 2 or Provision 3. However, a simplified system of editing total daily meal counts remains a prudent management tool critical to the integrity of the programs. Therefore, the final rule adds new paragraphs clarifying edit check activity under Provision 2 and Provision 3.

Under new paragraph (b)(4), School food authority claims review process, school food authorities are required to review the lunch count data for each Provision 2 school under its jurisdiction in accordance with § 210.8(a)(2) during the base year. However, during non-base years and streamlined base years, school food authorities must conduct a simplified edit check of Provision 2 schools' total daily meal counts as compared to the school's total enrollment, adjusted by an attendance factor.

A similar requirement for Provision 3 schools is found at new paragraph (d)(6), School food authority claims review process. Under this paragraph, school food authorities are required to review lunch count data for each Provision 3 school under its jurisdiction in accordance with § 210.8(a)(2) during the base year. However, during the non-base years and streamlined base years, school food authorities must conduct their own system of oversight or compare each Provision 3 school's total daily meal counts to the school's total enrollment, adjusted by an attendance factor. Both paragraphs (b)(4) and (d)(6) require school food authorities to promptly follow up as specified in § 210.8(a)(4) when the claims review process suggests the likelihood of lunch count problems.

These provisions affect schools that elect to operate Provision 2 or Provision 3 in the National School Lunch Program. If a school elects to operate Provision 2 or Provision 3 only in the School Breakfast Program, school food authorities must continue to comply with the claims review requirements of § 210.8(a)(2) for the National School Lunch Program.

We are also taking this opportunity to clarify the procedures for conducting verification during the base year and non-base years for schools operating under Provision 2 and Provision 3. In accordance with § 245.6a, schools operating under Provision 2 or Provision 3 are subject to the school food authority's verification activity, except as otherwise specified in § 245.6a(a)(5). Section 245.6a(a)(5) states that school food authorities in which all schools participate in the Special Assistance Certification and Reimbursement Alternatives specified in § 245.9 shall meet the verification requirement only in those years in which applications are taken for all children in attendance.

This final rule further clarifies the verification requirements during non-base years as they pertain to Provision 2 in newly added paragraph (b)(5), Verification and Provision 3 in newly added paragraph (d)(7), Verification. When a school elects to participate under Provision 2 or Provision 3 for all of the meal programs in which it participates (breakfast and/or lunch), during the non-base years, the applications from that school are excluded from the verification requirements and are not included when the school food authority determines its required verification sample size. However, if a school operates the School Breakfast Program under Provision 2 or Provision 3 and operates the National School Lunch Program under standard application, counting and claiming procedures, the applications from this school are included in the school food authority's calculation of its required sample size and are subject to verification during non-base years.

Consistent with sections 11(a)(1)(D) and (E) of the NSLA (42 U.S.C. 1759a(1)(D) and 1759a(1)(E)), the proposed rule, (§ 245.9(c) for Provision 2 and § 245.9(e) for Provision 3), would permit extension of Provision 2 or Provision 3 if the income level of the school's population, as adjusted for inflation, has remained stable, declined or has had only negligible improvement since the base year. The proposed rule defined ''Negligible improvement'' to mean 5% or less improvement, after adjusting for inflation, over the base year in the level of the socioeconomic indicator which is used to establish the income level of the school's population. Five commenters supported the proposal in general. Of the five commenters, one commenter requested that the percentage be increased in schools with a high percentage of needy students. Another commenter suggested increasing the percentage in schools with small populations. We considered these comments and determined that a standard criteria for granting extensions provides for the most consistent implementation of the provisions. Therefore, the final rule retains the definition of negligible improvement as proposed.

Proposed § 245.9(c)(2)(iii) for Provision 2 and § 245.9(e)(2)(iii) for Provision 3, Establish a streamlined base year, would have allowed an enrollment based streamlined base year for those schools that did not receive an extension. Three commenters opposed the option of a streamlined base year for schools that do not receive an extension. The commenters expressed concerns that current data problems with overcertification may be exacerbated through statistical determinations of eligibility. The Department does not anticipate that the use of statistical sampling methodology will have a material effect on the overcertification data problem. However, to address commenter concern, this final rule clarifies that school food authorities must obtain State agency approval prior to conducting a streamlined base year. Two commenters supported the option of conducting an enrollment based, streamlined base year but expressed concern that the proposed method would establish claiming percentages based on enrollment rather than participation. These two commenters recommended adding an additional option, i.e., participation based claiming percentages. We considered these comments and concluded that one of the barriers to a school's participation in Provision 2 or Provision 3 has been the requirement to take free and reduced price applications at the end of each cycle. To make the provisions more accessible, the final rule retains the option to conduct an enrollment based streamlined base year as proposed. In addition, as a result of the information learned from the Department's Paperwork Reduction Pilot Projects and the comments received, paragraph (c)(2)(iii) for Provision 2 and paragraph (e)(2)(iii) for Provision 3, Establish a streamlined base year, has been expanded to allow a participation based streamlined base year.

Under new paragraph (c)(2)(iii)(B) for Provision 2 and paragraph (e)(2)(iii)(B) for Provision 3, Participation based percentages, participation based claiming percentages are allowed in schools operating under Provision 2 or Provision 3 that did not receive an extension. To employ participation based claiming percentages, all meals must be provided at no charge to all participating children. Eligibility for free and reduced price meals is based on household size and income information, and direct certification if applicable, for a statistically valid proportion of participating children. The sample of participating students must be drawn over multiple operating days as defined by guidance.

Proposed § 245.9(d), Provision 3, would have permitted Provision 3 schools to serve all meals at no charge in the base year or charge students eligible for reduced price and paid benefits for their meals. The final rule adopts this provision as proposed, although it limits this option to those base years which are not conducted as a streamlined base year. In schools electing to conduct a streamlined base year in accordance with paragraph (c)(2)(iii) for Provision 2 and paragraph (e)(2)(iii) for Provision 3, all participating students must be provided meals at no charge.

Proposed § 245.9(d)(3), Meal Counts, would have required Provision 3 schools to take daily meal counts of reimbursable meals at the point of service during the non-base years of operation. Unlike the standard meal counting system and Provision 2, these meal counts would not provide the basis for financial assistance under Provision 3. Rather, these meal counts would establish whether participation is declining significantly and, if so, to allow the school food authority or the State agency to intervene and provide technical assistance. We received eight comments regarding the proposed meal counts under Provision 3. Seven of the commenters supported the collection of meal counts. Most commenters agreed that collecting meal counts is a good management tool. One commenter opposed meal counts and expressed concern that schools may have diverted meal counting staff to other duties. The final rule retains the requirement to obtain total daily meal counts for schools operating under Provision 3 as proposed.

The proposal would have permitted State agencies to exempt residential child care institutions from obtaining total daily meal counts during non-base

years in those cases where enrollment, participation and meal counts do not vary and there is an approved mechanism in place to ensure that students will receive reimbursable meals. Two commenters supported this provision as outlined in the proposed rule, therefore, paragraph (d)(3) is finalized as proposed.

Proposed § 245.9(d)(5) Reporting requirements, would have required the State agency to submit to the Department on the monthly FNS–10, the Report of School Program Operations, the number of meals, by type as an adjustment to enrollment and, if applicable, operating days. As an option, States could construct the number of meals, by type, to reflect the adjusted level of cash assistance. Four comments were received regarding Provision 3 reporting requirements. One of the four commenters felt that the proposed wording was confusing and requested clarification. One commented that changes to the FNS–10 form should be approved by the Education Information Advisory Committee. A third commenter felt that any changes to the FNS–10 form would result in significant programming changes for their automated data reporting system. The fourth commenter noted that adjustments for operating days and enrollment would need to be made manually. Based on these comments we have clarified the wording and at this time no changes are made to the FNS–10 form. In addition, no changes were made to § 210.5(d)(1) which requires State agencies to report to FNS the total number of children approved for free and reduced price meals, and other data, as of the last day of operation in October for all schools, including those participating in Provision 2 and Provision 3. In response to the comments and to simplify the process, paragraph (d)(5) of the final rule includes minor changes intended to clarify the reporting procedures.

Section 245.11 Action by State Agencies and FNSROs

Proposed § 245.11(h)(1), Notification, would have required State agencies to provide notification by February 15 of the fourth year to those school food authorities of schools operating under Provision 2 or Provision 3. The notification would inform school food authorities that they must either return to standard eligibility determination and meal counting procedures or apply for an extension. One commenter expressed concern that February 15 was too early to notify school food authorities and requested a change that would allow State agencies to determine the dates. As a result, paragraph (h)(1) is modified to allow State agencies the option of establishing a date other than February 15, during the fourth year, to notify school food authorities of the requirements.

Proposed § 245.11(h)(2), Return to standard procedures, would have required that schools operating under Provision 2 or Provision 3 return to standard eligibility determination and meal counting procedures if the State agency determined that records were not maintained. One commenter suggested that States also have the authority to determine and assess fiscal action for overclaims, if applicable. Therefore paragraph (h)(2) of this final rule restates the provision as proposed and expands the provision to require State agencies to determine any fiscal action as authorized under § 210.19(c).

Under proposed § 245.11(h)(3), Technical assistance, paragraph (h)(3)(ii) would have required the State agency to provide technical assistance when the State agency determined that, among other things, meal quality declined as a result of the implementation of Provision 2 or Provision 3. Two commenters suggested that criteria should be established for determining whether meal quality has declined as a result of the provisions. After consideration of these comments, we continue to believe that the assessment of meal quality, and the extent to which a decline can be attributed to the implementation of a provision, is best left to the discretion of the State agency. Because an evaluation of meal quality and the factors leading to any decline tend to be site-specific, the final rule restates the provision as proposed without imposing criteria for determining meal quality.

Proposed paragraph (h)(3)(iv) would have required the State agency to provide technical assistance when the State agency determined that, among other things, the school food authority incorrectly conducted eligibility determinations. The final rule expands the provision as proposed to clarify that, in addition to the eligibility determination process, State agencies must provide technical assistance when it is determined that the school food authority conducted the verification process incorrectly.

Proposed § 245.11(h)(4), State agency recordkeeping, would have required State agencies to maintain records of the types of pre-approved socioeconomic data used to grant extensions of Provision 2 and Provision 3. We received four comments expressing concern with the burdens associated with maintaining such records. We acknowledge the concerns. However, this level of operational experience and data are necessary to establish the efficacy of the changes made in this final rule. The Department intends to re-evaluate the recordkeeping burden at a future date and make changes, such as reducing recordkeeping, as appropriate.

As a result of inquiries and operational experiences at the State agency level, we have taken this opportunity to clarify the State agency responsibilities regarding the approval of school food authorities wishing to participate under Provision 2 and Provision 3. Current program requirements establish that State agencies require school food authorities to comply with the applicable provisions of 7 CFR parts 210 and 220. It has been the Department's position that State agencies only approve for participation under Provision 2 or Provision 3 those schools that are operating the programs in accordance with applicable requirements. To clarify State agency responsibilities for approving schools to participate under Provision 2 and Provision 3, the final rule adds a new paragraph (h)(5), State agency approval, which clarifies that prior to approval for participation under Provision 2 or Provision 3, State agencies shall ensure school food authority program compliance as required under 7 CFR 210.19(a)(4) and 220.13(k).

Technical Amendments

Subsequent to the publication of the proposed rule, we determined that a technical amendment to 7 CFR part 245 is necessary to provide clarification regarding the reference to direct certification and the Food Distribution Program on Indian Reservations (FDPIR). Currently part 245 makes a reference to ''FDPIR case number or other identifier''. The Department intended that the ''other identifier'' be limited to an FDPIR identifier. For this reason, the words ''FDPIR case number or other FDPIR identifier'' replace the words ''FDPIR case number or other identifier'' in § 245.5(a)(1)(vi), § 245.6(a), § 245.6(a)(1), § 245.6a(a), § 245.6a(a)(2)(i) and § 245.6a(a)(3).

Additionally, this final rule corrects an error in § 245.5(a) which occurred in the final rule entitled, School Nutrition Programs: Nondiscretionary Technical Amendments (64 FR 50735). That rule intended to remove an obsolete reference to § 210.2(o)(2). In so doing, it created an unintended error in regulatory text. This final rule corrects that error by restating the intent of the original regulatory text by clarifying that residential child care institutions, as

defined under 7 CFR 210.2, are not required to provide a public announcement notification requirements under certain conditions.

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 13132

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have ''federalism implications,'' agencies are directed to provide a statement for inclusion in the preamble to the regulation describing the agency's considerations in terms of the three categories called for under section (6)(a)(B) of Executive Order 13132:

Prior Consultation With State Officials

Prior to drafting this final rule, we received input from State and local agencies at various times. Since the Child Nutrition Programs are State administered, federally funded programs, our regional offices have informal and formal discussions with State and local officials on an ongoing basis regarding program implementation and performance. This arrangement allows State and local agencies to provide feedback that forms the basis for any discretionary decisions in this and other Child Nutrition Program rules. Additionally, the Department issued a proposed rule, found at 65 FR 5791, which solicited public comment. The Department has also discussed the provisions of the proposal in numerous forums. Discussions with State agencies took place at the Biennial State Directors' Meeting held in 1999 and at multiple State agency meetings held at various times throughout 1999 and 2000. Discussions with school food service personnel took place at a meeting sponsored by the American School Food Service Association and in a variety of other small group meetings.

Nature of Concerns and the Need To Issue This Rule

State and local agencies were generally supportive of the provisions in the proposed rule. There were no overwhelming concerns; rather, concerns were expressed about numerous operational issues related to the administrative ease and program integrity. The issuance of a regulation is required to implement statutory changes brought about by Public Laws 103–448, 104–193 and 105–336.

Extent to Which We Meet These Concerns

We have considered all comments received on the proposed rule. Since commenters addressed numerous operational issues, we made every effort to incorporate commenter concerns, particularly those related to administrative ease, within the constraints of statutory authority and concerns for program integrity.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service (FNS) generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to 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 FNS 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 final rule contains no Federal mandates (under regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services has certified that this rule will not have a significant economic impact on a substantial number of small entities. This final rule reduces school food authority administrative burdens, streamlines program operations and enhances access to the programs by needy children. The Department does not anticipate any significant fiscal impact would result from implementation of this final rulemaking.

Executive Order 12372

The National School Lunch Program and the School Breakfast Program, which are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555 and 10.556, respectively, are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule, is intended to have a preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which otherwise impede its full implementation. This final rule does not have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions of this final rule or the application of the provisions, all applicable administrative procedures must be exhausted. In the National School Lunch Program and the School Breakfast Program, the administrative procedures are set forth under the following regulations (1) School food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established pursuant to 7 CFR 210.18(q) and 220.14(e); (2) School food authority appeals of FNS findings as a result of an administrative review must follow FNS hearing procedures as established pursuant to 7 CFR 210.30(d)(3) and 220.14(g); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR 235.11(b)) must follow the FNS administrative review process as established pursuant to 7 CFR 235.11(f).

Regulatory Impact Analysis

A regulatory impact analysis of the rule identified that it would offer significant benefits for households and school food authorities. The analysis indicates households will benefit from Provision 2 and 3 since they no longer submit applications to their children's schools. In addition, households with reduced price and paid students will no longer have to purchase school lunches for their children (saving them between $40 and $280 per year per student). Students will benefit from the availability of meals at no charge: more students will likely participate in the meal programs and receive well-balanced lunches and breakfasts.

During non-base years, school food authorities of schools operating under Provisions 2 and 3 would experience a significant reduction of administrative

burdens. For example, a hypothetical school food authority with 5 schools offering the School Breakfast Program and National School Lunch Program, and operating only the School Breakfast Program as Provision 2, could realize savings of between $350,000 and $440,000 over ten years compared to standard National School Lunch Program and School Breakfast Program operations. As another example, a hypothetical school food authority with 5 schools offering the National School Lunch Program and School Breakfast Program and using Provision 3 in its National School Lunch Program and School Breakfast Program operations could save between $1.1 million and $1.2 million over ten years compared to standard National School Lunch Program and School Breakfast Program operations. These savings would be realized by no longer counting school meals by reimbursement category (free, reduced-price, and paid) and eliminating the associated student classification records system and by no longer collecting applications from households annually. The analysis also indicates that a hypothetical 5-school school food authority using Provision 2 only in its School Breakfast Program operations would need to obtain about $10,800 of non-federal funds a year to make up for the loss experienced under Provision 2.

The analysis also finds that State agencies would experience some additional burden through this rule due to the responsibility of making extension determinations and reporting information on usage of Provision 2 and Provision 3 and possibly having to report information on extension determinations. The analysis asserts that once State agencies and school food authorities are accustomed with Provisions 2 and 3, the extension determination burden on State agencies would be minimal and the reporting burdens would be noticeable, but not significant. However, the significant reduction in burdens by eliminating eligibility determinations, meal counts by type, verification and a payment system for reduced price and full price meals offsets the insignificant increase in burdens associated with extension determinations.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the information reporting and recordkeeping requirements included in §§ 245.9(f), 245.9(g), 245.9(h) and 245.11(h) of this final rule were reviewed by OMB. OMB approved these requirements for 7 CFR part 245 under control number 0584–0026. This final rule codifies Provision 2 and Provision 3 as outlined in the proposed rule. There are no changes in the annual burden hours (ABH) from those identified in the proposed rule. The rule makes nine changes that affect the recordkeeping burden hours as follows: Eliminates the need for school food authorities to develop a notice to parents containing eligibility criteria and maintain documentation (−125 ABH); Requires school food authority recordkeeping of eligibility and meal count documentation (+2,000 ABH); requires updates to policy statements (+238 ABH); eliminates the need for school food authorities to develop and distribute a public release similar to parent letter (−125 ABH); eliminates the need for school food authorities to develop and distribute forms to households (−500 ABH); requires State agencies to keep records of Provision 2 and 3 (+648 ABH); requires State agencies to maintain information on schools participating and extensions (+162 ABH); eliminates schools' need to distribute applications (−1,000 ABH); eliminates schools' review of applications and the process of making eligibility determinations (−8,528 ABH). The rule makes two changes that affect the reporting burden hours as follows: requires school food authorities to submit extension data and documentation to State agencies (+125 ABH); requires State agencies submit extension data and documentation to FNS (+216 ABH). These changes result in a reduction of 7,230 hours in the annual recordkeeping burden and an increase of 341 hours in the reporting burden.

List of Subjects in 7 CFR Part 245

Food assistance programs, Grant programs-education, Civil rights, Food and Nutrition Service, Grant Programs-health, Infants and children, Milk, Reporting and recordkeeping requirements, School breakfast and lunch programs.

Accordingly, 7 CFR part 245 is amended as follows:

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

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

Authority: 42 U.S.C. 1752, 1758, 1759a, 1772, 1773, and 1779.

2. In part 245, the words ''FDPIR case number or other identifier'' are removed wherever they appear and the words ''FDPIR case number or other FDPIR identifier'' are added in their place in the following places:

a. § 245.5(a)(1)(vi);

b. § 245.6(a);

c. § 245.6a(a);

d. § 245.6a(a)(2)(i).

3. In part 245, the words ''FDPIR case numbers or other identifiers'' are removed wherever they appear in § 245.6a(a)(3) and the words ''FDPIR case numbers or other FDPIR identifiers'' are added in their place.

4. In § 245.2:

a. Paragraph (f–3) is added; and

b. Paragraph (j) is amended by removing the word ''two'' and adding, in its place, the word ''three''.

The addition reads as follows:

§ 245.2 Definitions.

* * * * *

(f–3) *Operating day* means a day that reimbursable meals are offered to eligible students under the National School Lunch Program or School Breakfast Program.

* * * * *

5. In § 245.5 revise the first sentence of paragraph (a) to read as follows:

§ 245.5 Public announcement of the eligibility criteria.

(a) After the State agency, or FNSRO where applicable, notifies the school food authority that its criteria for determining the eligibility of children for free and reduced price meals and for free milk have been approved, the school food authority shall publicly announce such criteria: *Provided however,* that no such public announcement shall be required for boarding schools, residential child care institutions (see § 210.2 of this chapter, definition of *Schools*), or a school which includes food service fees in its tuition, where all attending children are provided the same meals or milk. * * * * * * * * *

6. In § 245.9:

a. A heading is added to paragraph (a) to read ''*Provision 1.*'', and

b. Paragraphs (b) through (g) are removed and paragraphs (b) through (k) are added in their place.

The additions read as follows:

§ 245.9 Special assistance certification and reimbursement alternatives.

(a) *Provision 1.* * * *

(b) *Provision 2.* A school food authority may certify children for free and reduced price meals for up to 4 consecutive school years in the schools which serve meals at no charge to all enrolled children; provided that public notification and eligibility

determinations are in accordance with § 245.5 and § 245.3, respectively, during the base year as defined in paragraph (b)(6) of this section. The Provision 2 base year is the first year, and is included in the 4-year cycle. The following requirements apply:

(1) *Meals at no charge.* Participating schools must serve reimbursable meals, as determined by a point of service observation, or as otherwise approved under part 210 of this chapter, to all participating children at no charge.

(2) *Cost differential.* The school food authority of a school participating in Provision 2 must pay, with funds from non-Federal sources, the difference between the cost of serving lunches and/or breakfasts at no charge to all participating children and Federal reimbursement.

(3) *Meal counts.* During the base year, even though meals are served to participating students at no charge, schools must take daily meal counts of reimbursable student meals by type (free, reduced price, and paid) at the point of service, or as otherwise approved under part 210 of this chapter. During the non-base years, participating Provision 2 schools must take total daily meal counts (not by type) of reimbursable student meals at the point of service, or as otherwise approved under part 210 of this chapter. For the purpose of calculating reimbursement claims in the non-base years, school food authorities must establish school specific monthly or annual claiming percentages, as follows:

(i) *Monthly percentages.* In any given Provision 2 school, the monthly meal counts of the actual number of meals served by type (free, reduced price, and paid) during the base year must be converted to monthly percentages for each meal type. For example, the free lunch percentage is derived by dividing the monthly total number of reimbursable free lunches served by the total number of reimbursable lunches served in the same month (free, reduced price and paid). The percentages for the reduced price and paid lunches are calculated using the same method as the above example for free lunches. These three percentages, calculated at the end of each month of the first school year, are multiplied by the corresponding monthly lunch count total of all reimbursable lunches served in the second, third and fourth consecutive school years, and applicable extensions, in order to calculate reimbursement claims for free, reduced price and paid lunches each month. The free, reduced price and paid percentages for breakfasts and, as applicable, snacks, are calculated using the same method; or

(ii) *Annual percentages.* In any given Provision 2 school, the actual number of all reimbursable meals served by type (free, reduced price, and paid) during the base year must be converted to an annual percentage for each meal type. For example, the free lunch percentage is derived by dividing the annual total number of reimbursable free lunches served by the annual total number of reimbursable lunches served for all meal types (free, reduced price and paid). The percentages for the reduced price and paid lunches are calculated using the same method as the above example for free lunches. These three percentages, calculated at the end of the base year, are multiplied by the total monthly lunch count of all reimbursable lunches served in each month of the second, third and fourth consecutive school years, and applicable extensions, in order to calculate reimbursement claims for free, reduced price and paid lunches each month. The free, reduced price and paid percentages for breakfasts and, as applicable, snacks, are calculated using the same method for each type of meal service.

(4) *School food authority claims review process.* During the Provision 2 base year (not including a streamlined base year under paragraph (c)(2)(iii) of this section), school food authorities are required to review the lunch count data for each school under its jurisdiction to ensure the accuracy of the monthly Claim for Reimbursement in accordance with § 210.8(a)(2) of this chapter. During non-base years and streamlined base years, school food authorities must compare each Provision 2 school's total daily meal counts to the school's total enrollment, adjusted by an attendance factor. The school food authority must promptly follow-up as specified in § 210.8(a)(4) of this chapter when the claims review suggests the likelihood of lunch count problems. When a school elects to operate Provision 2 only in the School Breakfast Program, school food authorities must continue to comply with the claims review requirements of § 210.8(a)(2) of this chapter for the National School Lunch Program.

(5) *Verification.* Except as otherwise specified in § 245.6a(a)(5), school food authorities are required to conduct verification in accordance with § 245.6a. When a school elects to participate under Provision 2 or for all of the meal programs in which it participates (breakfast 7 CFR part 220 and/or lunch 7 CFR part 210), the applications from that school are excluded from the school food authority's required verification sample size and are exempt from verification during non-base years.

(6) *Base year.* For purposes of this paragraph (b), the term *base year* means the last school year for which eligibility determinations were made and meal counts by type were taken or the school year in which a school conducted a streamlined base year as authorized under paragraph (c)(2)(iii) of this section. Schools shall offer reimbursable meals to all students at no charge during the Provision 2 base year except as otherwise specified in paragraph (b)(6)(ii) of this section.

(i) *Duration of the base year.* The base year must begin at the start of the school year or as otherwise specified in paragraph (b)(6)(ii) of this section.

(ii) *Delayed implementation.* At State agency discretion, schools may delay implementation of Provision 2 for a period of time not to exceed the first claiming period of the school year in which the base year is established. Schools implementing this option may conduct standard meal counting and claiming procedures, including charging students eligible for reduced price and paid meals, during the first claiming period of the school year. Such schools must submit claims reflecting the actual number of meals served by type. In subsequent years, such schools shall convert the actual number of reimbursable meals served by type (free, reduced price and paid) during the remaining claiming periods of the base year, in which meals were served at no charge to all participating students, to an annual percentage for each type of meal. The annual claiming percentages must be applied to the total number of reimbursable meals served during the first claiming period in all non-base years of operation for that cycle and any extensions.

(c) *Extension of Provision 2.* At the end of the initial cycle, and each subsequent 4-year cycle, the State agency may allow a school to continue under Provision 2 for another 4 years using the claiming percentages calculated during the most recent base year if the school food authority can establish, through available and approved socioeconomic data, that the income level of the school's population, as adjusted for inflation, has remained stable, declined or has had only negligible improvement since the base year.

(1) *Extension criteria.* School food authorities must submit to the State agency available and approved socioeconomic data to establish whether the income level of a school's population, as adjusted for inflation, remained constant with the income level of the most recent base year.

(i) *Available and approved sources of socioeconomic data.* Pre-approved sources of socioeconomic data which may be used by school food authorities to establish the income level of the school's population are: local data collected by the city or county zoning and economic planning office; unemployment data; local Food Stamp Program certification data including direct certification; Food Distribution Program on Indian Reservations data; statistical sampling of the school's population using the application or equivalent income measurement process; and, Temporary Assistance for Needy Families data (provided that the eligibility standards were the same or more restrictive in the base year as the current year with allowance for inflation). To grant an extension using pre-approved socioeconomic data sources, State agencies must review and evaluate the socioeconomic data submitted by the school food authority to ensure that it is reflective of the school's population, provides equivalent data for both the base year and the last year of the current cycle, and demonstrates that the income level of the school's population, as adjusted for inflation, has remained stable, declined or had only negligible improvement. If the school food authority wants to establish the income level of the school's population using alternate sources of socioeconomic data, the use of such data must be approved by the Food and Nutrition Service. Data from alternate sources must be reflective of the school's population, be equivalent data for both the base year and the last year of the current cycle, and effectively measure whether the income level of the school's population, as adjusted for inflation, has remained stable, declined or had only negligible improvement.

(ii) *Negligible improvement.* The change in the income level of the school's population shall be considered negligible if there is a 5 percent or less improvement, after adjusting for inflation, over the base year in the level of the socioeconomic indicator which is used to establish the income level of the school's population.

(2) *Extension not approved.* The State agency shall not approve an extension of Provision 2 procedures in those schools for which the available and approved socioeconomic data does not reflect the school's population, is not equivalent data for the base year and the last year of the current cycle, or shows over 5 percent improvement, after adjusting for inflation, in the income level of the school's population. Such schools shall:

(i) *Return to standard meal counting and claiming.* Return to standard meal counting and claiming procedures;

(ii) *Establish a new base year.* Establish a new Provision 2 base year by taking new free and reduced price applications, making new free and reduced price eligibility determinations, and taking point of service counts of free, reduced price and paid meals for the first year of the new cycle. For these schools, the new Provision 2 cycle will be 4 years. Schools electing to establish a Provision 2 base year shall follow procedures contained in paragraph (b) of this section;

(iii) *Establish a streamlined base year.* With prior approval by the State agency, establish a streamlined base year by providing reimbursable meals to all participating students at no charge and developing either enrollment based or participation based claiming percentages.

(A) *Enrollment based percentages.* In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 2 base year by determining program eligibility on the basis of household size and income, and direct certification if applicable, for a statistically valid proportion of the school's enrollment as of October 31, or other date approved by the State agency. The statistically valid measurement of the school's enrollment must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, enrollment based claiming percentages representing a proportion of the school's population eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal counts of reimbursable meals at the point of service, or as otherwise approved under part 210 of this chapter. For schools electing to participate in Provision 2, these percentages shall be used for claiming reimbursement for each year of the new cycle and any extensions; or

(B) *Participation based percentages.* In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 2 base year by determining program eligibility on the basis of household size and income, and direct certification if applicable, for a statistically valid proportion of participating students established over multiple operating days. The statistically valid measurement of the school's student participation must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, participation based claiming percentages representing a proportion of the school's participating students which are eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal counts of reimbursable meals at the point of service or as otherwise approved under part 210 of this chapter. These percentages shall be used for claiming reimbursement for each year of the new cycle and any extensions; or

(iv) *Establish a Provision 3 base year.* Schools may convert to Provision 3 using the procedures contained in paragraphs (e)(2)(ii) or (e)(2)(iii) of this section.

(d) *Provision 3.* A school food authority of a school which serves all enrolled children in that school reimbursable meals at no charge during any period for up to 4 consecutive school years may elect to receive Federal cash reimbursement and commodity assistance at the same level as the total Federal cash and commodity assistance received by the school during the last year that eligibility determinations for free and reduced price meals were made and meals were counted by type (free, reduced price and paid) at the point of service, or as otherwise authorized under part 210 of this chapter. Such cash reimbursement and commodity assistance will be adjusted for each of the 4 consecutive school years pursuant to paragraph (d)(4) of this section. For purposes of this paragraph (d), the term base year means the last complete school year for which eligibility determinations were made and meal counts by type were taken or the school year in which a school conducted a streamlined base year as authorized under paragraph (e)(2)(iii) of this section. The base year must begin at the start of a school year. Reimbursable meals may be offered to all students at no charge or students eligible for reduced price and paid meal benefits may be charged for meals during a Provision 3 base, *except that* schools conducting a Provision 3 streamlined base year must provide reimbursable meals to all participating students at no charge in accordance with paragraph (e)(2)(iii) of this section. The Provision 3 base year immediately precedes, and is not included in, the 4-year cycle. This alternative shall be known as Provision 3, and the following requirements shall apply:

(1) *Meals at no charge.* Participating schools must serve reimbursable meals, as determined by a point of service observation, or as otherwise authorized under part 210 of this chapter, to all participating children at no charge during non-base years of operation or as specified in paragraph (e)(2)(iii) of this section, if applicable.

(2) *Cost differential.* The school food authority of a school participating in Provision 3 must pay, with funds from non-Federal sources, the difference between the cost of serving lunches and/or breakfasts at no charge to all participating children and Federal reimbursement.

(3) *Meal counts.* Participating schools must take total daily meal counts of reimbursable meals served to participating children at the point of service, or as otherwise authorized under part 210 of this chapter, during the non-base years. Such meal counts must be retained at the local level in accordance with paragraph (g) of this section. State agencies may require the submission of the meal counts on the school food authority's monthly Claim for Reimbursement or through other means. In addition, school food authorities must establish a system of oversight using the daily meal counts to ensure that participation has not declined significantly from the base year. If participation declines significantly, the school food authority must provide the school with technical assistance, adjust the level of financial assistance received through the State agency or return the school to standard eligibility determination and meal counting procedures, as appropriate. In residential child care institutions, the State agency may approve implementation of Provision 3 without the requirement to obtain daily meal counts of reimbursable meals at the point of service if:

(i) The State agency determines that enrollment, participation and meal counts do not vary; and

(ii) There is an approved mechanism in place to ensure that students will receive reimbursable meals.

(4) *Annual adjustments.* The State agency or school food authority shall make annual adjustments for enrollment and inflation to the total Federal cash and commodity assistance received by a Provision 3 school in the base year. The adjustments shall be made for increases and decreases in enrollment of children with access to the program(s). The annual adjustment for enrollment shall be based on the school's base year enrollment as of October 31 compared to the school's current year enrollment as of October 31. Another date within the base year may be used if it is approved by the State agency, and provides a more accurate reflection of the school's enrollment or accommodates the reporting system in effect in that State. If another date is used for the base year, the current year date must correspond to the base year date of comparison. State agencies may, at their discretion, make additional adjustments to a participating school's enrollment more frequently than once per school year. If more frequent enrollment is calculated, it must be applied for both upward and downward adjustments. The annual adjustment for inflation shall be effected through the application of the current year rates of reimbursement. To the extent that the number of operating days in the current school year differs from the number of operating days in the base year, and the difference affects the number of meals, a prorata adjustment shall also be made to the base year level of assistance, as adjusted by enrollment and inflation. Upward and downward adjustments to the number of operating days shall be made. Such adjustment shall be effected by either:

(i) Multiplying the average daily meal count by type (free, reduced price and paid) by the difference in the number of operating days between the base year and the current year and adding/subtracting that number of meals from the Claim for Reimbursement, as appropriate. In developing the average daily meal count by type for the current school year, schools shall use the base year data adjusted by enrollment; or

(ii) Multiplying the dollar amount otherwise payable (i.e., the base year level of assistance, as adjusted by enrollment and inflation) by the ratio of the number of operating days in the current year to the number of operating days in the base year.

(5) *Reporting requirements.* The State agency shall submit to the Department on the monthly FNS–10, Report of School Programs Operations, the number of meals, by type (i.e., monthly meal counts by type for the base year, as adjusted); or the number of meals, by type, constructed to reflect the adjusted levels of cash assistance. State agencies may employ either method to effect payment of reimbursement for Provision 3 schools.

(6) *School food authority claims review process.* During the Provision 3 base year (not including a streamlined base year under paragraph (e)(2)(iii) of this section), school food authorities are required to review the lunch count data for each school under its jurisdiction to ensure the accuracy of the monthly Claim for Reimbursement in accordance with § 210.8(a)(2) of this chapter. During non-base years and streamlined base years, school food authorities must conduct their own system of oversight or compare each Provision 3 school's total daily meal counts to the school's total enrollment, adjusted by an attendance factor. The school food authority must promptly follow-up as specified in § 210.8(a)(4) of this chapter when the claims review suggests the likelihood of lunch count problems. When a school elects to operate Provision 3 only in the School Breakfast Program, school food authorities must continue to comply with the claims review requirements of § 210.8(a)(2) of this chapter for the National School Lunch Program.

(7) *Verification.* Except as otherwise specified in § 245.6a(a)(5), school food authorities are required to conduct verification in accordance with § 245.6a. When a school elects to participate under Provision 3 for all of the meal programs in which it participates (breakfast 7 CFR part 220 and/or lunch 7 CFR part 210), the applications from that school are excluded from the school food authority's required verification sample size and are exempt from verification during non-base years.

(e) *Extension of Provision 3.* At the end of the initial cycle, and each subsequent 4-year cycle, the State agency may allow a school to continue under Provision 3 for another 4 years without taking new free and reduced price applications and meal counts by type. State agencies may grant an extension of Provision 3 if the school food authority can establish, through available and approved socioeconomic data, that the income level of the school's population, as adjusted for inflation, has remained stable, declined, or has had only negligible improvement since the most recent base year.

(1) *Extension criteria.* School food authorities must submit to the State agency available and approved socioeconomic data to establish whether the income level of the school's population, as adjusted for inflation, remained constant with the income level of the most recent base year.

(i) *Available and approved sources of socioeconomic data.* Pre-approved sources of socioeconomic data which may be used by school food authorities to establish the income level of the school's population are: local data collected by the city or county zoning and economic planning office; unemployment data; local Food Stamp Program certification data including direct certification; Food Distribution Program on Indian Reservations data; statistical sampling of the school's population using the application process; and Temporary Assistance for Needy Families data (provided that the eligibility standards were the same or more restrictive in the base year as the current year with allowance for inflation). To grant an extension using pre-approved socioeconomic data sources, State agencies must review and

evaluate the socioeconomic data submitted by the school food authority to ensure that it is reflective of the school's population, provides equivalent data for both the base year and the last year of the current cycle, and demonstrates that the income level of the school's population, as adjusted for inflation, has remained stable, declined or had only negligible improvement. If the school food authority wants to establish the income level of the school's population using alternate sources of data, the use of such data must be approved by the Food and Nutrition Service. Data from alternate sources must be reflective of the school's population, be equivalent data for both the base year and the last year of the current cycle, and effectively measure whether the income level of the school's population, as adjusted for inflation, has remained stable, declined or had only negligible improvement.

(ii) *Negligible improvement.* The change in the income level of the school population shall be considered negligible if there is a 5 percent or less improvement, after adjusting for inflation, over the base year in the level of the socioeconomic indicator which is used to establish the income level of the school's population.

(2) *Extension not approved.* Schools for which the available and approved socioeconomic data does not reflect the school's population, is not equivalent data for the base year and the last year of the current cycle, or shows over 5 percent improvement after adjusting for inflation, shall not be approved for an extension. Such schools must elect one of the following options:

(i) *Return to standard meal counting and claiming.* Return to standard meal counting and claiming procedures;

(ii) *Establish a new base year.* Establish a new Provision 3 base year by taking new free and reduced price applications, making new free and reduced price eligibility determinations, and taking point of service counts of free, reduced price and paid meals for the first year of the new cycle. Schools electing to establish a Provision 3 base year shall follow procedures contained in paragraph (d) of this section;

(iii) *Establish a streamlined base year.* With prior approval by the State agency, establish a streamlined base year by providing reimbursable meals to all participating students at no charge and developing either enrollment based or participation based claiming percentages.

(A) *Enrollment based percentages.* In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 3 base year by determining program eligibility on the basis of household size and income, and direct certification if applicable, for a statistically valid proportion of the school's enrollment as of October 31, or other date approved by the State agency. The statistically valid measurement of the school's enrollment must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, enrollment based claiming percentages representing a proportion of the school's population eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal counts of reimbursable meals at the point of service, or as otherwise approved under part 210 of this chapter. For schools electing to participate in Provision 3, the streamlined base year level of assistance will be adjusted for enrollment, inflation and, if applicable, operating days, for each subsequent year of the new cycle and any extensions; or

(B) *Participation based percentages.* In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 3 base year by determining program eligibility on the basis of household size and income, and direct certification if applicable, for a statistically valid proportion of participating students established over multiple operating days. The statistically valid measurement of the school's student participation must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, participation based claiming percentages representing a proportion of the school's participating students which are eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal counts of reimbursable meals at the point of service or as otherwise approved under part 210 of this chapter. For schools electing to participate in Provision 3, the streamlined base year level of assistance as described in this paragraph (e)(2)(iii)(B) will be adjusted for enrollment, inflation and, if applicable, operating days, for each subsequent year of the new cycle and any extensions; or

(iv) *Establish a Provision 2 base year.* Schools may convert to Provision 2 using the procedures contained in paragraphs (c)(2)(ii) or (c)(2)(iii) of this section.

(f) *Policy statement requirement.* A school food authority of a Provision 1, 2, or 3 school shall:

(1) Amend its Free and Reduced Price Policy Statement, specified in § 245.10, to include a list of all schools participating in Provision 1, 2, or 3, and for each school:

(i) The initial year of implementing the provision;

(ii) The years the cycle is expected to remain in effect;

(iii) The year the provision must be reconsidered; and

(iv) The available and approved socioeconomic data that will be used in the reconsideration, if applicable.

(2) Certify that the school(s) meet the criteria for participating in the special assistance provisions, as specified in paragraphs (a), (b), (c), (d) or (e) of this section, as appropriate.

(g) *Recordkeeping.* School food authorities of schools implementing Provision 1, 2 or 3 shall retain records related to the implementation of the provision. Failure to maintain sufficient records shall result in the State agency requiring the school to return to standard meal counting and claiming procedures and/or fiscal action. Recordkeeping requirements specific to Provision 2 and Provision 3 include:

(1) *Base year records.* A school food authority shall ensure that records as specified in § 210.15(b) and § 220.7(e) of this chapter which support subsequent year earnings are retained for the base year for schools under Provision 2 and Provision 3. In addition, records of enrollment data for the base year must be retained for schools under Provision 3. Such base year records must be retained during the period the provision is in effect, including all extensions, plus 3 fiscal years after the submission of the last Claim for Reimbursement which employed the base year data. School food authorities that conduct a streamlined base year must retain all records related to the statistical methodology and the determination of claiming percentages. Such records shall be retained during the period the provision is in effect, including all extensions, plus 3 fiscal years after the submission of the last Claim for Reimbursement which employed the streamlined base year data. In either case, if audit findings have not been resolved, base year records must be retained beyond the 3-year period as long as required for the resolution of the issues raised by the audit.

(2) *Non-base year records.* School food authorities that are granted an extension of a provision must retain records of the available and approved socioeconomic data which is used to determine the income level of the school's population for the base year and year(s) in which extension(s) are made. In addition, State agencies must also retain records of the available and approved socioeconomic data which is

used to determine the income level of the school's population for the base year and year(s) in which extensions are made. Such records must be retained at both the school food authority level and at the State agency during the period the provision is in effect, including all extensions, plus 3 fiscal years after the submission of the last monthly Claim for Reimbursement which employed base year data. If audit findings have not been resolved, records must be retained beyond the 3-year period as long as required for the resolution of the issues raised by the audit. In addition, for schools operating under Provision 2, a school food authority must retain non-base year records pertaining to total daily meal count information, edit checks and on-site review documentation. For schools operating under Provision 3, a school food authority must retain non-base year records pertaining to total daily meal count information, the system of oversight or edit checks, on-site review documentation, annual enrollment data and the number of operating days, which are used to adjust the level of assistance. Such records shall be retained for three years after submission of the final monthly Claim for Reimbursement for the fiscal year.

(h) *Availability of documentation.* Upon request, the school food authority shall make documentation including enrollment data, participation data, available and approved socioeconomic data that was used to grant the extension, if applicable, or other data available at any reasonable time for monitoring and audit purposes. In addition, upon request from the Food and Nutrition Service, school food authorities under Provision 2 or Provision 3, or State agencies shall submit to the Food and Nutrition Service all data and documentation used in granting extensions including documentation as specified in paragraphs (g) and (h) of this section.

(i) *Return to standard meal counting and claiming.* A school food authority may return a school to standard notification, certification and counting procedures at any time if standard procedures better suit the school's program needs. The school food authority will then notify the State agency.

(j) *Puerto Rico and Virgin Islands.* Puerto Rico and the Virgin Islands, where a statistical survey procedure is permitted in lieu of eligibility determinations for each child, may either maintain their standard procedures in accordance with § 245.4 or may opt for Provision 2 or Provision 3 provided the eligibility requirements as set forth in paragraphs (a), (b), (c), (d) and (e) of this section are met, as applicable.

(k) *Statistical income measurements.* Statistical income measurements that are used under this section to establish enrollment or participation base claiming percentages must comply with the standards outlined as follows:

(1) For enrollment based claiming percentages, statistical income measurements must meet the following standards:

(i) The sample frame shall be limited to enrolled students who have access to the school meals program;

(ii) A sample of enrolled students shall be randomly selected from the sample frame;

(iii) The response rate to the survey shall be at least 80 percent;

(iv) The number of households that complete the survey shall be sufficiently large so that it can be asserted with 95 percent confidence that the true percentage of students who are enrolled in the school, have access to the school meals program, and are eligible for free meals is within plus or minus 2.5 percentage points of the point estimate determined from the sample; and

(v) To minimize statistical bias, data from all households that complete the survey must be used when calculating the enrollment based claiming percentages for paragraphs (c)(2)(iii)(A) and (e)(2)(iii)(A) of this section.

(2) For participation based claiming percentages, statistical income measurements must meet the following standards:

(i) The sample frame must be limited to students participating in the meal program for which the participation based claiming percentages are being developed;

(ii) The sample frame must represent multiple operating days, as established through guidance, in the meal program for which the participation based claiming percentages are being developed;

(iii) A sample of participating students shall be randomly selected from the sample frame;

(iv) The response rate to the survey shall be at least 80 percent;

(v) The number of households that complete the survey shall be sufficiently large so that it can be asserted with 95 percent confidence that the true percentage of participating students who are eligible for free meals is within plus or minus 2.5 percentage points of the point estimate determined from the sample; and,

(vi) To minimize statistical bias, data from all households that complete the survey must be used when calculating the participation based claiming percentages for paragraphs (c)(2)(iii)(B) and (e)(2)(iii)(B) of this section.

7. In § 245.11, a new paragraph (h) is added to read as follows:

§ 245.11 Action by State agencies and FNSROs.

* * * * *

(h) The State agency shall take action to ensure the proper implementation of Provisions 1, 2, and 3. Such action shall include:

(1) *Notification.* Notifying school food authorities of schools implementing Provision 2 and/or 3 that each Provision 2 or Provision 3 school must return to standard eligibility determination and meal counting procedures or apply for an extension under Provision 2 or 3. Such notification must be in writing, and be sent no later than February 15, or other date established by the State agency, of the fourth year of a school's current cycle;

(2) *Return to standard procedures.* Returning the school to standard eligibility determination and meal counting procedures and fiscal action as required under § 210.19(c) of this chapter if the State agency determines that records were not maintained; and

(3) *Technical assistance.* Providing technical assistance, adjustments to the level of financial assistance for the current school year, and returning the school to standard eligibility determination and meal counting procedures, as appropriate, if a State agency determines at any time that:

(i) The school or school food authority has not correctly implemented Provision 1, Provision 2 or Provision 3;

(ii) Meal quality has declined because of the implementation of the provision;

(iii) Participation in the program has declined over time;

(iv) Eligibility determinations or the verification procedures were incorrectly conducted; or

(v) Meal counts were incorrectly taken or incorrectly applied.

(4) *State agency recordkeeping.* State agencies shall retain the following information annually for the month of October and, upon request, submit to FNS:

(i) The number of schools using Provision 1, Provision 2 and Provision 3 for NSLP;

(ii) The number of schools using Provision 2 and Provision 3 for SBP only;

(iii) The number of extensions granted to schools using Provision 2 and Provision 3 during the previous school year;

(iv) The number of extensions granted during the previous year on the basis of Food Stamp/FDPIR data;

(v) The number of extensions granted during the previous year on the basis of Temporary Assistance for Needy Families (TANF) data;

(vi) The number of extensions granted during the previous year on the basis of local data collected by a city or county zoning and/or economic planning office;

(vii) The number of extensions granted during the previous year on the basis of applications collected from enrolled students;

(viii) The number of extensions granted during the previous year on the basis of statistically valid surveys of enrolled students; and

(ix) The number of extensions granted during the previous year on the basis of alternate data as approved by the State agency's respective FNS Regional Office.

(5) *State agency approval.* Prior to approval for participation under Provision 2 or Provision 3, State agencies shall ensure school and/or school food authority program compliance as required under §§ 210.19(a)(4) and 220.13(k) of this chapter.

Dated: September 11, 2001.

Eric M. Bost,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 01–23350 Filed 9–19–01; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 287

[INS No. 2171–01]

RIN 1115–AG40

Custody Procedures

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comment.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations on the period of time after an alien's arrest within which the Service must make a determination whether the alien will be continued in custody or released on bond or recognizance and whether to issue a notice to appear and warrant of arrest. This rule provides that unless voluntary departure has been granted, the Service must make such determinations within 48 hours of arrest, except in the event of emergency or other extraordinary circumstance in which case the Service must make such determinations within an additional reasonable period of time.

DATES: *Effective date:* September 17, 2001.

Comment date: Written comments must be submitted on or before November 19, 2001.

ADDRESSES: Please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling please reference INS No. 2171–01 on your correspondence. You may also submit comments electronically to the Service at *insregs@usdoj.gov.* When submitting comments electronically please include INS No. 2171–01 in the subject box. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Cristina Hamilton, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street, NW., Room 6100, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION:

Background

What Is the Basis for the Interim Rule?

The current rule provides that unless voluntary departure is granted, the Service must make determinations within 24 hours of an alien's arrest whether to continue the alien in custody or to release the alien on bond or recognizance and whether to issue a notice to appear and a warrant of arrest. However, this 24-hour period is not mandated by constitutional requirements. The interim rule provides the Service 48 hours to make these determinations, except in the event of emergency or other extraordinary circumstance in which case the Service must make such determinations within an additional reasonable period of time.

Explanation of Changes

The interim rule amends § 287.3(d), ''Custody procedures.'' The current language of that section provides that unless voluntary departure has been granted pursuant to subpart C of 8 CFR part 240, the Service has a period of 24 hours following the arrest of an alien in which it must determine whether the alien will be continued in custody or released on bond or recognizance and whether to issue a notice to appear and warrant of arrest as prescribed in 8 CFR parts 236 and 239.

Inasmuch as the 24-hour determination period is not mandated by constitutional principles, the Service is amending the rule to provide that unless voluntary departure has been granted pursuant to subpart C of 8 CFR part 240, the Service generally must make the determinations as to custody or release of the alien and as to the issuance of the notice to appear and warrant of arrest within 48 hours of arrest. The Service may often require this additional time in order to establish an alien's true identity; to check domestic, foreign, or international databases and records systems for relevant information regarding the alien; and to liaise with appropriate law enforcement agencies in the United States and abroad.

In situations involving an emergency or other extraordinary circumstance, the Service may require additional time beyond 48 hours to process cases, to arrange for additional personnel or resources, and to coordinate with other law enforcement agencies. Therefore, the interim rule provides an exception to the 48-hour general rule for any case arising during or in connection with an emergency or other extraordinary circumstance, in which case the Service must make the determinations as to custody or release and as to the issuance of the notice to appear and warrant of arrest within an additional reasonable period of time.

Administrative Procedure Act 5 U.S.C. 553

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based on the foreign affairs exception, 5 U.S.C. 553(a)(1), and upon findings of good cause pursuant to 5 U.S.C. 553(b)(B) and (d).

The immediate implementation of this interim rule without public comment is necessary to ensure that the Service has sufficient time, personnel, and resources to process cases—including establishing true identities and communicating with other law enforcement agencies—that arise in connection with the emergency posed by the recent terrorist activities perpetrated on United States soil. This rule does not alter the standards for issuing charging documents or determining the issue of custody or release, but simply extends the period by which the Service must make such determinations. For this reason, the Service has determined that there is good cause to publish this interim rule and to make it effective immediately, because the delays inherent in the regular notice and comment process would be ''impracticable, unnecessary and contrary to the public interest.''

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule addresses only government operations. It places no new obligations on small entities or other private individuals or businesses. It should have no appreciable economic impact.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12866

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

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

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

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting and recordkeeping requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 287

Administrative practice and procedure, Aliens, Immigration.

Accordingly, part 287 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 287—FIELD OFFICERS; POWERS AND DUTIES

1. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 8 CFR part 2.

2. Section 287.3(d) is revised to read as follows:

§ 287.3 Disposition of cases of aliens arrested without warrant.

* * * * *

(d) *Custody procedures.* Unless voluntary departure has been granted pursuant to subpart C of 8 CFR part 240, a determination will be made within 48 hours of the arrest, except in the event of an emergency or other extraordinary circumstance in which case a determination will be made within an additional reasonable period of time, whether the alien will be continued in custody or released on bond or recognizance and whether a notice to appear and warrant of arrest as prescribed in 8 CFR parts 236 and 239 will be issued.

Dated: September 17, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–23545 Filed 9–17–01; 4:51 pm]

BILLING CODE 4410–10–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33–8004; 34–44792; IC–25157; FR–57]

RIN 3235–A131

Bookkeeping Services Provided by Auditors To Audit Clients in Emergency or Other Unusual Situations

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Interpretation.

SUMMARY: This release expresses the view of the Commission that auditors of the financial statements of Commission registrants may provide certain bookkeeping services to those audit clients directly affected by the events of September 11, 2001.

EFFECTIVE DATE: September 14, 2001.

FOR FURTHER INFORMATION CONTACT: John M. Morrissey, Deputy Chief Accountant or Samuel L. Burke, Associate Chief Accountant, Office of the Chief Accountant, at (202) 942–4400, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1103.

SUPPLEMENTARY INFORMATION:

I. Introduction and Summary

Accounting firms and registrants have asked the Commission whether accounting firms may assist audit clients that had offices in and around the World Trade Center by participating in the recovery process to facilitate a timely, effective and efficient revitalization of their audit clients' records and systems that were destroyed in the events of September 11, 2001, without impairing the auditor's independence from those clients. The Commission believes that accounting firms may perform such services without impairing their independence.

II. Discussion

In November 2000, the Commission substantially revised Rule 2–01 of Regulation S–X,[1] which addresses auditors' independence from their audit clients filing financial statements with the Commission.[2] As amended, Rule 2–01(c)(4)(i)(A) states that, among other things, maintaining or preparing an audit client's accounting records or preparing or originating source data underlying an audit client's financial

[1] 17 CFR 210.2–01.

[2] [Release No. 33–7919; 34–43602, 35–27279; IC–24744; IA–1911; FR–56 (November 20, 2000).]

statements will impair an auditor's independence from that client. Rule 2–01(c)(4)(i)(B)(1), however, permits such bookkeeping services ''in emergency or other unusual situations, provided the accountant does not undertake any managerial actions or make any managerial decisions.''

The Commission believes that the events of September 11, 2001, clearly meet the definition of an unusual situation and an emergency situation for those companies that have been directly affected by the destruction of the World Trade Center and damage to surrounding buildings.

Accordingly, this event qualifies as an ''emergency or other unusual situation'' under Rule 2–01(c)(4)(i)(B)(1) of the bookkeeping rule and, provided that the accounting firm does not undertake managerial actions or decisions, an accounting firm's independence will not be deemed to be impaired where a firm is providing bookkeeping services to those entities directly affected by the destruction of the World Trade Center and damage to surrounding buildings. The Commission understands that in this unique situation an auditor may be best suited, because of its knowledge of its client's financial systems, to participate in the recovery process and facilitate a timely, effective and efficient revitalization of its clients' records and systems. Services under this exception may continue until the client's host or destroyed records are reconstructed and its financial systems are fully operational, and the client can effect an orderly and efficient transition to management or other service providers.

List of Subjects in 17 CFR Part 211

Securities.

Amendments to the Code of Federal Regulations

For the reasons set forth in the release, we are amending title 17, chapter II of the Code of Federal Regulations as follows:

PART 211—INTERPRETATIONS RELATING TO FINANCIAL REPORTING MATTERS

1. Part 211, subpart A, is amended by adding Release No. FR–57 and the release date of September 14, 2001 to the list of interpretive releases.

Dated: September 14, 2001.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23434 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

28 CFR Part 810

[CSOSA–0002–I]

RIN 3225–AA00

Community Supervision: Administrative Sanctions Schedule

AGENCY: Court Services and Offender Supervision Agency for the District of Columbia.

ACTION: Interim rule.

SUMMARY: In this document, the Court Services and Offender Supervision Agency for the District of Columbia (''CSOSA'') is adopting interim regulations on administrative sanctions which may be imposed on offenders under CSOSA's supervision who violate the general or specific conditions of their release. The purpose of imposing sanctions is to enable CSOSA staff to respond as swiftly, certainly, and consistently as practicable to non-compliant behavior. Using sanctions will reduce the number of violation reports sent to the releasing authority (for example, the sentencing court or the United States Parole Commission). CSOSA staff will be able to refer offenders back to the releasing authority having demonstrated that CSOSA has exhausted the range of options at its disposal to change the offender's non-compliant behavior. The releasing authority may then concentrate on those referrals which fully merit scrutiny. The purpose of the regulations is to prevent crime, reduce recidivism, and support the fair administration of justice through the promotion of effective community supervision.

DATES: Effective September 20, 2001; comments must be submitted by November 19, 2001.

ADDRESSES: Office of the General Counsel, CSOSA, Room 1253, 633 Indiana Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Records Manager (telephone (202) 220–5359; e-mail *roy.nanovic@csosa.gov*).

SUPPLEMENTARY INFORMATION: The Court Services and Offender Supervision Agency for the District Of Columbia (''CSOSA'') is adopting interim regulations on the imposition of administrative sanctions for offenders under CSOSA's supervision.

CSOSA is responsible for the supervision of adults on probation, parole, or supervised release in the District of Columbia. A critical factor in such supervision is the ability to introduce an accountability structure into the supervision process and to provide swift, certain, and consistent responses to non-compliant behavior. Under traditional procedures, when offenders under CSOSA supervision violate the general or specific conditions of their release, CSOSA staff must refer the matter to the releasing authority. In most cases, the releasing authority is the sentencing court (usually the Superior Court of the District of Columbia) or the United States Parole Commission (''USPC''). The releasing authority, however, may include any of the jurisdictions participating in the Interstate Compact. The referrals necessarily increase the workload for the releasing authority. The response and response time between a reported violation and a hearing is consequently uncertain.

Regulations issued by the USPC (*see* 28 CFR 2.85(a)(15)) authorize CSOSA's community supervision officers to impose graduated sanctions if a parolee has tested positive for illegal drugs or has committed any non-criminal violation of the conditions of parole. The USPC retains the authority to override an imposed sanction and issue a warrant or summons if it finds that the parolee is a risk to public safety or is not complying in good faith with the sanction. The Superior Court of the District of Columbia typically includes authorization for a program of graduated sanctions in connection with illicit drug use or other violation of conditions of probation as part of the offender's general conditions of probation. By issuing these interim regulations on the imposition of administrative sanctions, CSOSA intends to ensure the consistency, certainty, and timeliness of imposed sanctions for all offenders (parolees, probationers, and supervised releasees) under its supervision.

Under these interim regulations, CSOSA establishes a supervision level and minimum contact requirements for the individual offender (*see* § 810.1). CSOSA uses an accountability contract (*see* § 810.2) between the offender and CSOSA to define non-compliant behavior. The accountability contract outlines the expectations for behavior and the consequences (that is, the sanctions) for failing to comply. The sanctions present the community supervision officer with a range of corrective actions (*see* § 810.3) which can be applied short of court or USPC approval. The goal of these sanctions is to change offender behavior. Imposing the sanctions quickly and consistently

may prevent escalation of the offender's non-compliant behavior.

The accountability contract identifies a schedule for imposing sanctions which is keyed to the recurrence of violations. The accountability contract also provides for positive reinforcements for compliant behavior (*see* § 810.3(d)).

Administrative sanctions accordingly are a component of effective supervision. When CSOSA does make a referral to the court or to the USPC, it will be able to demonstrate that it has exhausted the range of options at its disposal with respect to the offender's non-compliant behavior or that the violation is so severe immediate action by the releasing authority may be necessary to revoke the offender's liberty in the community. The reduction in the number of referrals should benefit the court and the USPC. CSOSA believes that a supervisory program which emphasizes strict enforcement of the rules and which fosters a supportive relationship with the releasing authority will tend to have fewer problems with offender compliance. Fewer problems with offender compliance benefit both the community and the offender.

Matters of Regulatory Procedure

Administrative Procedure Act

CSOSA is issuing the rule as final without general notice of proposed rulemaking and without any delay in its effectiveness because of the anticipated benefits to the public safety of the community, relief to the courts and the USPC, and to offenders under supervision who may be at risk for continued non-compliant behavior. Any interested person, however, who wishes to submit comments on the rule may do so by writing or e-mailing the agency at the addresses given above in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** captions.

Executive Order 12866

This interim rule has been determined to be significant under Executive Order 12866 and has been reviewed the Office of Management and Budget (OMB).

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Director of CSOSA has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of CSOSA, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule and by approving it certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule pertains to agency management, and its economic impact is limited to the agency's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, the Director of CSOSA has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We want to make CSOSA's documents easy to read and understand. If you have suggestions on how to improve the clarity of these regulations, write, e-mail, or call CSOSA's Records Manager (Roy Nanovic) at the address or telephone number given above in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** captions.

List of Subjects in 28 CFR Part 810

Probation and Parole.

Jasper Ormond,

Interim Director.

Accordingly, we amend chapter VIII, Title 28 of the Code of Federal Regulations by adding a new part 810 as set forth below.

PART 810—COMMUNITY SUPERVISION: ADMINISTRATIVE SANCTIONS

Sec.

Authority: Pub. L. 105–33, 111 Stat. 712 (D.C. Code 24–1233(b)(2)(B)).

§ 810.1 Supervision contact requirements.

If you are an offender under supervision by the Court Services and Offender Supervision Agency for the District of Columbia (''CSOSA''), CSOSA will establish a supervision level for you and your minimum contact requirement (that is, the minimum frequency of face-to-face interactions between you and a Community Supervision Officer (''CSO'')).

§ 810.2 Accountability contract.

(a) Your CSO will instruct you to acknowledge your responsibilities and obligations of being under supervision (whether through probation, parole, or supervised release as granted by the releasing authority) by agreeing to an accountability contract with CSOSA.

(b) The CSO is responsible for monitoring your compliance with the conditions of supervision. The accountability contract identifies the following specific activities constituting substance abuse or non-criminal violations of your conditions of supervision.

(1) *Substance abuse violations.*

(i) Positive drug test.

(ii) Failure to report for drug testing.

(iii) Failure to appear for treatment sessions.

(iv) Failure to complete inpatient/outpatient treatment programming.

(2) *Non-criminal violations.*

(i) Failure to report to the CSO.

(ii) Leaving the judicial district without the permission of the court or the CSO.

(iii) Failure to work regularly or attend training and/or school.

(iv) Failure to notify the CSO of change of address and/or employment.

(v) Frequenting places where controlled substances are illegally sold, used, distributed, or administered.

(vi) Associating with persons engaged in criminal activity.

(vii) Associating with a person convicted of a felony without the permission of the CSO.

(viii) Failure to notify the CSO within 48 hours of being arrested or questioned by a law enforcement officer.

(ix) Entering into an agreement to act as an informer or special agent of a law enforcement agency without the permission of the Court or the United States Parole Commission (''USPC'').

(x) Failure to adhere to any general or special condition of release.

(c) The accountability contract will identify a schedule of administrative

sanctions (*see* § 810.3(b)) which may be imposed for your first violation and for subsequent violations.

(d) The accountability contract will provide for a reduction in your supervision level and/or the removal of previously imposed sanctions if:

(1) You maintain compliance for at least ninety days,

(2) The Supervisory Community Supervision Officer concurs with this assessment, and

(3) There are no additional reasons unrelated to the imposed sanction requiring the higher supervision level.

§ 810.3 Consequences of violating the conditions of supervision.

(a) If your CSO has reason to believe that you are failing to abide by the general or specific conditions of release or you are engaging in criminal activity, you will be in violation of the conditions of your supervision. Your CSO may then impose administrative sanctions (see paragraph (b) of this section) and/or request a hearing by the releasing authority. This hearing may result in the revocation of your release or changes to the conditions of your release.

(b) Administrative sanctions available to the CSO include:

(1) Daily check-in with supervision for a specified period of time;

(2) Increased group activities for a specified period of time;

(3) Increased drug testing;

(4) Increased supervision contact requirements;

(5) Referral for substance abuse addiction or other specialized assessments;

(6) Electronic monitoring for a specified period of time;

(7) Community service for a specified number of hours;

(8) Placement in a residential sanctions facility or residential treatment facility for a specified period of time.

(9) Travel restrictions.

(c) You remain subject to further action by the releasing authority. For example, the USPC may override the imposition of any of the sanctions in paragraph (b) of this section and issue a warrant or summons if you are a parolee and it finds that you are a risk to the public safety or that you are not complying in good faith with the sanctions (*see* 28 CFR 2.85(a)(15)).

[FR Doc. 01–23410 Filed 9–19–01; 8:45 am]

BILLING CODE 3129–01–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 6

[Docket No. 010827218–1218–01]

RIN 0651–AB42

International Trademark Classification Changes

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) issues a final rule to incorporate classification changes adopted by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. These changes will become effective January 1, 2002, and will be listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (8th ed., 2001), which is published by the World Intellectual Property Organization (WIPO).

DATES: This final rule is effective January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Jessie Marshall, Office of the Commissioner for Trademarks, by telephone at (703) 308–8910, ext. 148; by facsimile transmission addressed to her at (703) 308–9395; by e-mail addressed to her at *Jessie.Marshall@USPTO.gov;* or by mail marked to her attention and addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513.

SUPPLEMENTARY INFORMATION:

Discussion of Specific Rules Changed or Added

The Office is revising § 6.1 to incorporate classification changes that will become effective January 1, 2002, as will be listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (8th ed., 2001), published by the World Intellectual Property Organization (WIPO).

These revisions have been incorporated into the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. As a signatory to the Nice Agreement, the United States adopts these revisions pursuant to Article 1.

The purpose of the Nice Classification is to group, to the fullest extent possible, like goods or services into a single class. Generally, the system is successful in achieving that purpose. However, over the years, it became apparent that Class 42 included many disparate services due to the inclusion of the language ''services that cannot be classified in other classes'' in the class title. This language allowed services as different as chemical research and horoscope casting to be included in the class. Therefore, after much study and discussion, the Committee of Experts for the Nice Agreement approved the restructuring of Class 42. The subsequent restructuring limited the scope of the services in Class 42, created three additional classes that accounted for services formerly grouped in Class 42, and excluded the language ''services that cannot be classified in other classes'' in any of the new or old service classes. The Committee of Experts found that the revision of Class 42 created an adequate number of well-defined classes so that this language was no longer necessary in the class headings or explanatory notes of the Nice Agreement.

Along with the creation of the new classes and their class headings, the Committee of Experts approved the following Explanatory Notes for each class to clarify the nature of the services encompassed by the class heading.

Class 42

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; legal services.

Explanatory Note

Class 42 includes mainly services provided by persons, individually or collectively, in relation to the theoretical and practical aspects of complex fields of activities; such services are provided by members of professions such as chemists, physicists, engineers, computer specialists, lawyers, etc.

This Class includes, in particular:

- The services of engineers who undertake evaluations, estimates, research and reports in the scientific and technological fields;
- Scientific research services for medical purposes.

This Class does not include, in particular:

- Business research and evaluations (Cl. 35);
- Word processing and computer file management services (Cl. 35);
- Financial and fiscal evaluations (Cl. 36);

• Mining and oil extraction (Cl. 37);
• Computer (hardware) installation and repair services (Cl. 37);
• Services provided by the members of professions such as medical doctors, veterinary surgeons, psychoanalysts (Cl. 44);
• Medical treatment services (Cl. 44);
• Garden design (Cl. 44).

Class 43

Services for providing food and drink; temporary accommodations.

Explanatory Note

Class 43 includes mainly services provided by persons or establishments whose aim is to prepare food and drink for consumption and services provided to obtain bed and board in hotels, boarding houses or other establishments providing temporary accommodations.

This Class includes, in particular:
• Reservation services for travellers' accommodations, particularly through travel agencies or brokers;
• Boarding for animals.

This Class does not include, in particular:
• Rental services for real estate such as houses, flats, etc., for permanent use (Cl. 36);
• Arranging travel by tourist agencies (Cl. 39);
• Preservation services for food and drink (Cl. 40);
• Discotheque services (Cl. 41);
• Boarding schools (Cl. 41);
• Rest and convalescent homes (Cl. 44).

Class 44

Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

Explanatory Note

Class 44 includes mainly medical, hygienic, and beauty care given by persons or establishments to human beings and animals; it also includes services relating to the fields of agriculture, horticulture and forestry.

This Class includes, in particular:
• Medical analysis services relating to the treatment of persons (such as x-ray examinations and taking of blood samples);
• Artificial insemination services;
• Pharmacy advice;
• Animal breeding;
• Services relating to the growing of plants such as gardening;
• Services relating to floral art such as floral compositions as well as garden design.

This Class does not include, in particular:
• Vermin extermination (other than for agriculture, horticulture and forestry) (Cl. 37);
• Installation and repair services for irrigation systems (Cl. 37);
• Ambulance transport (Cl. 39);
• Animal slaughtering services and taxidermy (Cl. 40);
• Timber felling and processing (Cl. 40);
• Animal training services (Cl. 41);
• Health clubs for physical exercise (Cl. 41);
• Scientific research services for medical purposes (Cl. 42);
• Boarding for animals (Cl. 43);
• Retirement homes (Cl. 43).

Class 45

Personal and social services rendered by others to meet the needs of individuals; security services for the protection of property and individuals.

Explanatory Note

This Class includes, in particular:
• Investigation and surveillance services relating to the safety of persons and entities;
• Services provided to individuals in relation with social events, such as social escort services, matrimonial agencies, and funeral services.

This Class does not include, in particular:
• Professional services giving direct aid in the operations or functions of a commercial undertaking (Cl. 35);
• Services relating to financial or monetary affairs and services dealing with insurance (Cl. 36);
• Escorting of travellers (Cl. 39);
• Security transport (Cl. 39);
• Services consisting of all forms of education of persons (Cl. 41);
• Performances of singers and dancers (Cl. 41);
• Legal services (Cl. 42);
• Services provided by others to give medical, hygienic or beauty care for human beings or animals (Cl. 44);
• Certain rental services (consult the Alphabetical List of Services and General Remark (b) relating to the classification of services).

Rulemaking Requirements

Administrative Procedure Act: The amendments in this final rule are procedural in nature as they only reorganize the international classifications of goods and services, which are established by the Committee of Experts of the Nice Union and will be promulgated in the volume entitled International Classification of Goods and Services for the Purposes of the Registration of Marks (8th ed. 2002). Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A), or any other law. Furthermore, pursuant to 5 U.S.C. 553(b)(B), notice and an opportunity for public comment are unnecessary since the amendments are required by the Nice Agreement to which the United States is a signatory.

Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

Executive Order 13132: This final rule does not contain policies with federalism implications, as that term is defined in Executive Order 13132 (August 4, 1999).

Executive Order 12866: This final rule has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

Paperwork Reduction Act: This final rule does not involve information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 37 CFR Part 6

Trademarks.

For the reasons given in the preamble and under the authority contained in 35 U.S.C. 2 and 15 U.S.C. 41, as amended, the United States Patent and Trademark Office is amending part 6 of title 37 as follows:

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

1. The authority citation for part 6 continues to read as follows:

Authority: 15 U.S.C. 1112, 1123; 35 U.S.C. 2, unless otherwise noted.

2. Section 6.1 is amended by revising paragraph 42, and adding paragraphs 43, 44, and 45, to read as follows:

§ 6.1 International schedule of classes of goods and services.

Goods

* * * * *

42. Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; legal services.

43. Services for providing food and drink; temporary accommodations.

44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

45. Personal and social services rendered by others to meet the needs of individuals; security services for the protection of property and individuals.

Dated: September 14, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–23454 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA232–0289, FRL–7048–1]

Approval and Promulgation of Ozone Attainment Plan and Finding of Failure To Attain; State of California, San Francisco Bay Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving in part and disapproving in part the 1999 San Francisco Bay Area Ozone Attainment Plan (1999 Plan), submitted by the State of California to EPA to attain the 1-hour ozone national ambient air quality standard (NAAQS) in the San Francisco Bay Area. Specifically, EPA is approving the baseline emissions inventory, the Reasonable Further Progress (RFP) demonstration, control measure commitments, and contingency measures in the 1999 Plan as meeting the requirements of the Clean Air Act (CAA) applicable to the Bay Area ozone nonattainment area. EPA is also approving the removal of transportation control measures (TCMs) 6, 11, 12, and 16 from the state implementation plan (SIP) for ozone purposes.

We are disapproving the attainment assessment, its associated motor vehicle emissions budgets, and the reasonably available control measure (RACM) demonstration. The disapproval triggers, on its effective date, an 18-month clock for mandatory application of sanctions, a 2-year time clock for promulgation of a federal implementation plan (FIP), and a transportation conformity freeze.

EPA is also finding that the San Francisco Bay Area ozone nonattainment area did not attain the 1-hour ozone NAAQS by its November 15, 2000 attainment deadline. As a consequence, the State is required to submit a new plan no later than 12 months after the effective date of this rulemaking.

EFFECTIVE DATE: This rule is effective on October 22, 2001.

ADDRESSES: A copy of this final rule and related information are available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air.* The docket for this rulemaking is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 744–1249 for assistance.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield (415) 744–1249, Planning Office (AIR–2), Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105; *bloomfield.celia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

On March 30, 2000, EPA proposed to partially approve and partially disapprove the San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard, June 1999 (1999 Plan). Specifically, EPA proposed to approve the baseline emissions inventory, the Reasonable Further Progress (RFP) demonstration, a commitment to reduce volatile organic compound (VOC) emissions by 11 tons per day (tpd) by adopting and implementing specified control measures, and contingency measures in the 1999 Plan as meeting the requirements of the Clean Air Act (CAA) applicable to the Bay Area ozone nonattainment area. EPA also proposed to approve the removal of transportation control measures (TCMs) 6, 11, 12, and 16 from the ozone portion of the California state implementation plan (SIP). EPA proposed to disapprove the attainment assessment, its associated motor vehicle emissions budgets, and the reasonably available control measure (RACM) demonstration.

EPA's March 30, 2000 notice also included a proposed finding that the Bay Area failed to attain the 1-hour National Ambient Air Quality Standard (NAAQS) for ozone by its November 15, 2000 attainment deadline. For details about EPA's evaluation of the 1999 Plan elements and proposed failure to attain finding, please see the proposed rulemaking at 66 FR 17379, March 30, 2001.

The 1999 Plan was submitted to EPA on August 13, 1999 as a proposed revision to the SIP. The submittal was made by the California Air Resources Board (CARB) on behalf of the Bay Area Air Quality Management District (BAAQMD), the Metropolitan Transportation Commission (MTC), and the Association of Bay Area Governments (ABAG) to comply with EPA's July 10, 1998 rulemaking that redesignated the Bay Area from attainment to nonattainment (63 FR 37258, July 10, 1998).

II. EPA's Responses to Comments on the Proposal

A. Overview of Comments

EPA received 15 letters commenting on the March 30, 2001 proposal. The commenters represented State and local air quality and transportation agencies, the business community, and a number of public interest environmental and environmental justice groups. The majority of commenters expressed support for the proposed partial disapproval and finding of failure to attain. The proposed partial approval was viewed favorably as strengthening the SIP, but several commenters objected to the proposed approval of specific plan elements as meeting the requirements of section 172 of the CAA. A number of commenters also urged EPA and the BAAQMD to evaluate and explain why the 1999 Plan failed to provide for attainment. Significant comments are addressed below; the remaining comments are addressed in the Technical Support Document for this rulemaking.

B. Comments on Proposed Disapproval of Attainment Assessment

Comment: Many commenters asked that EPA provide a detailed analysis of all the reasons why the attainment assessment was flawed. Some commenters went further and asked EPA to supplement its reasons in the final rulemaking for disapproving the attainment assessment. Specifically, commenters argued that the attainment assessment was flawed (by a magnitude in the range of 25–50 tpd) not only because it inaccurately demonstrated attainment, but also because it: (1) Omitted available data by excluding 1998 monitoring data; (2) inaccurately estimated the impact deregulation has had on power plant emissions; and (3) relied on projections of motor vehicle emissions that assume large reductions that historically have not been fully realized.

Response: EPA shares the concerns raised with regard to the attainment

assessment. However, we do not believe that it is necessary or productive at this time to determine whether these concerns provide independent bases for disapproval since we are already disapproving the assessment based on air quality monitoring data. Nevertheless, the points raised are good ones, and we will take them into consideration as we review future plans and plan revisions.

Comment: Counsel for the Transportation Solutions Defense and Education Fund (TRANSDEF) commented that EPA's regulations specifically require use of a photochemical model, and that if the Bay Area need not use UAM modeling, the reasons should be fully explained in the **Federal Register**. The commenter asserted that EPA's ''attainment assessment'' approach outlined for the 1999 Plan did not accord with 40 CFR part 51.112 and appendix W. TRANSDEF also claimed that the Bay Area should have used EPA's model substitution process pursuant to 40 CFR part 51.112(a)(2) to authorize the techniques used in the 1999 Plan.

Response: EPA regulations at 40 CFR part 51, appendix W (6.0 Models of Ozone, Carbon Monoxide and Nitrogen Dioxide) do not mandate the use of photochemical modeling or the need to undergo a model substitution process. Rather, the pertinent language is as follows:

> A control agency with jurisdiction over areas with significant ozone problems and which has sufficient resources and data to use a photochemical dispersion model is encouraged to do so. However, empirical models fill the gap between more sophisticated photochemical dispersion models and may be the only applicable procedure if the available data bases are insufficient for refined modeling.

The attainment assessment for the Bay Area was based on an isopleth diagram generated from photochemical modeling, an approach EPA believes is consistent with the above requirement (1999 Plan, Section V, pp. 16–18).

Comment: One commenter stated that the Bay Area's continued lack of technically competent data and modeling resources mandates that EPA promulgate a Federal Implementation Plan (FIP). The commenter supported this position with language from *Arizona* v. *Thomas,* 829 F.2d 834 (9th Cir. 1987): ''Having failed in its obligation to produce or make reasonable efforts to produce SIPs which would appear to meet the requirements of the Act, Arizona should not be given another opportunity to produce more plans.''

Response: EPA's disapproval of the attainment assessment triggers an obligation of EPA to promulgate a FIP not later than two years following the disapproval unless EPA approves an attainment demonstration for the area in the interim. The State is currently working to submit a new attainment demonstration sooner than the one year provided by this final action. EPA believes that it is appropriate to first allow the State to replace the deficient SIP consistent with the work it is now doing.

The commenter's reliance on *Arizona* v. *Thomas* is misplaced. That case involved whether EPA appropriately applied a sanctions regulation on the State. The sanctions regulation (under the pre-1990 CAA) applied to areas that failed to meet the statutory attainment date. However, areas with fully approved SIPs were excluded—*i.e.,* not subject to the sanction. Because Arizona did not have a fully approved SIP, the court rejected Arizona's claim that the sanction should not apply and that Arizona should instead be given a chance to develop a new SIP. The narrow regulatory interpretation in that case bears no relevance on the post-1990 requirements of the CAA.

C. Comment on Proposed Disapproval of Motor Vehicle Emissions Budgets

Comment: Earthjustice provided additional justification beyond what was discussed in EPA's proposal for disapproving the transportation conformity budgets. Specifically, Earthjustice commented that the budgets were incorrectly calculated (approximately 20 tpd too high for VOC) because ''MTC [Metropolitan Transportation Commission] accidentally 'misbucketed' vehicle miles traveled [VMT] according to speed ranges.'' The commenter further suggested that EPA improve its oversight role to avoid similar errors in the future.

Response: EPA agrees that there have, in some cases, been problems with allocations of VMT by speed and therefore with emissions estimates. This type of mistake could impact budget levels, as they are based on motor vehicle emissions projected for the attainment year. With respect to this rulemaking, however, EPA is disapproving the budgets because they are based on an attainment assessment that was deficient. Therefore EPA need not explore a separate basis for disapproval. EPA will work with MTC in the future in an attempt to avoid any errors in VMT speed allocation and emissions estimates.

D. Comments on Proposed Disapproval of Reasonably Available Control Measure Demonstration (RACM)

Comment: The BAAQMD questioned the existence of a RACM obligation, asserting that all RACM are in place and that the District had already responded to public comments related to potential control measures for the 1999 Plan.

Response: The federal RACM obligation for ozone nonattainment areas is contained in section 172(c)(1) of the Act, which requires ''the implementation of all reasonably available control measures as expeditiously as practicable.'' The BAAQMD commenter did not deny this obligation, but rather asserted that the obligation has already been fulfilled. EPA disagrees with this position. EPA guidance, issued November 30, 1999 entitled, ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas,'' provides that ''[i]n order for the EPA to determine whether a State has adopted all RACM necessary for attainment as expeditiously as practicable, the State will need to provide a justification as to why measures within the arena of potentially reasonable measures have not been adopted. The justification would need to support that a measure was not 'reasonably available' for that area and could be based on technological or economic grounds.'' At a minimum, the justification should address ''any measure that a commenter indicates during the public comment period is reasonably available for a given area * * *.'' (57 FR 13560, April 16, 1992).

The Bay Area's 1999 Plan itself was silent on the RACM requirement. While the supporting documentation for the 1999 Plan did include a response to many public comments on control measures, not all of the suggested control measures were addressed. Moreover, where measures were specifically rejected, the justifications provided generally did not address the RACM criteria. According to EPA guidance, ''measures could be justified as not meeting RACM if a measure (a) is not technologically or economically feasible, or (b) does not advance the attainment date for the area'' (''Additional Submission on RACM from States with Severe 1-hour Ozone Nonattainment Area SIPs,'' EPA, December 14, 2000).

Comment: Several commenters urged EPA and the BAAQMD to thoroughly examine all of the control strategies in place in the South Coast air district as

well as those suggested through public comment and at public workshops. A number of commenters suggested specific measures that should be evaluated as RACM. The San Joaquin Valley Unified Air Pollution Control District identified three potential RACM measures for District adoption (or amendments to existing BAAQMD rules): SMOG Check II, aqueous solvent degreasing, and the permitting and control of smaller engines. Sherman Lewis, Chair of the Hayward Area Planning Association, identified a range of cash out and transit assistance measures that should be considered. Earthjustice suggested a RACM review of all BAAQMD and MTC measures that are not currently in the SIP. Another commenter urged EPA to clearly state that RACM requires adoption of all measures demonstrated in the State to be reasonably available, including measures in the Bay Area CAP and BAAQMD Rules 9–10 and 9–11. Communities for a Better Environment suggested several refinery measures, marine vessel measures, a requirement for diesel engine replacement, and others.

Response: EPA is disapproving the RACM component of the 1999 Plan for the reasons noted in the previous response. In order to correct the RACM deficiencies, an amended or new plan must consider or evaluate any control measures that are suggested by the public during its development and adoption as well as measures included in public comment on the 1999 Plan and as part of this rulemaking to determine whether or not they represent RACM.

Comment: The majority of commenters emphasized that RACM measures should be viewed collectively to determine whether their emissions reductions would expedite attainment.

Response: EPA agrees that RACM measures should be viewed collectively to determine whether their emissions reductions would expedite attainment. However, EPA has previously concluded that ''potential measures may be determined not to be RACM if they require an intensive and costly effort for numerous small area sources.'' 66 FR 586, 610; January 3, 2001. This interpretation of RACM ''is based on the common sense meaning of the phrase, 'reasonably available.' A measure that is reasonably available is one that is technologically and economically feasible and that can be readily implemented. Ready implementation also includes consideration of whether emissions from small sources are relatively small and whether the administrative burden, to the States and regulated entities, of controlling such sources was likely to be considerable. As stated in the General Preamble, EPA believes that States can reject potential measures based on local conditions including cost (57 FR 13561).'' 66 FR 586, 610; January 3, 2001. Also, the development of rules for a large number of very different source categories of small sources for which little control information may exist will likely take much longer than development of rules for source categories for which control information exists or that comprise a smaller number of larger sources. The longer the rule development time frame, the less likely that the emission reductions from the rules would advance the attainment date. EPA will analyze future RACM submissions from the Bay Area in light of these conclusions.

E. Comments on Proposed Approval of Baseline Emissions Inventory

Comment: Several commenters questioned the approvability of the 1995 baseline emissions inventory. Counsel for Our Children's Earth and Communities for a Better Environment argued that any approval of the emissions inventory without knowledge of why the plan failed is arbitrary. Another commenter questioned the inventory's accuracy, citing the increase in on-road mobile source emissions when CARB updated its mobile source model. Also raised was a concern that the inventory was not sufficiently ''current'' to be approvable.

Response: EPA believes it is not appropriate to assess the adequacy of an emissions inventory based on the ultimate success or failure of a plan. EPA reviewed the emissions inventory carefully and had a number of discussions with Air District and CARB staff about the estimates provided for various source categories. As noted in the March 30, 2001 proposal, the inventory figures were based on actual emissions in 1995. EMFAC 2000, CARB's newer mobile source model, was not available at the time, and hence could not be used to evaluate the accuracy of the inventory.

EPA believes that the emissions inventory can be approved because it is current in the context of the 1999 Plan. The decision to allow a 1995 baseline inventory was first proposed by EPA in 1997 and finalized, after public notice and comment, in 1998. No adverse comment was received. The plan was prepared in 1998 and submitted to EPA in 1999.

In short, we found nothing in our review to suggest that the inventory was inconsistent with EPA inventory guidance, ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations'' (EPA 454/R–99–006, April 1999). Nevertheless, since the Bay Area will have to submit a new plan in response to the disapproval and finding of failure to attain, there will need to be a new emissions inventory to support that plan.

Comment: Communities for a Better Environment pointed out that there are over 1300 Notices of Violation (NOVs) in the Bay Area that have not been processed, suggesting that rule effectiveness assumptions for various source categories may be overstated. If this is the case, emissions levels could likely be higher than the inventory figures.

Response: EPA does not judge the adequacy of emissions inventories on NOV statistics. In many cases, the issuance of a large number of NOVs indicates a healthy enforcement program. Moreover, many NOVs are written for non emissions-related violations (*e.g.,* recordkeeping) or for extremely minor emissions violations; therefore unresolved NOVs are not a good gauge for the effectiveness of a rule or regulatory program. The BAAQMD's enforcement process is to cite violations on site (sometimes multiple NOVs at a site daily). Compliance is demanded within fifteen to twenty days or further NOVs are issued until the problem is corrected. (BAAQMD Enforcement Division Policies and Procedures Manual, Notice of Violation Guidelines, pp. 5–6.) Violations are often bunched and then settled as a group for a particular facility; hence, it is not uncommon at any moment in time to find many seemingly ''unaddressed'' NOVs. Information about specific NOVs and a facility's current compliance status is available from the BAAQMD.

Moreover, one of the concepts behind rule effectiveness is that there is not 100% compliance. The estimated noncompliance is factored into the inventory.

F. Comments on Proposed Approval of Reasonable Further Progress Demonstration

Comment: Counsel for Our Children's Earth and Communities for a Better Environment opined that, unless EPA makes a finding as to why the Bay Area failed to attain the ozone standard, it is arbitrary to assume that the adopted measures were as effective as promised in the SIP. The commenter asserts that continuing exceedances (particularly in 1998—after three years of plan

implementation) is evidence that the measures were not as effective as promised and that RFP did not occur.

Response: RFP is defined as ''annual incremental reductions in emissions of the relevant air pollutant * * *.'' (CAA section 171(1)). For ozone, which is not emitted directly, the reductions must come from sources of the ozone precursors, VOC and NO_X. While it seems to make sense that reductions in VOC and NO_X could be measured by improvement in ozone levels, that is not necessarily the case. For instance, in the Bay Area, ozone levels are not decreasing as expected in response to the precursor emissions reductions. ''Proposed Final San Francisco Ozone Attainment Plan for the 1-Hour National Ozone Standard,'' June 2001, Figure 4. EPA therefore relies on the implementation of control measures, which are designed to reduce precursor emissions, to determine whether or not progress in reduction of emissions is being made. EPA concludes that the adopted measures are being implemented and sufficient reductions in emissions have occurred to represent reasonable further progress.

G. Comments on Proposed Approval of Control Measures

Comment: Commenters provided several arguments for finding the control strategy inadequate. First, the controls proposed did not compensate for the underestimated motor vehicle emissions calculated by EMFAC7g. The commenter urged EPA to look more closely at emissions reductions relied upon from state measures. In addition, the commenter stressed that control strategies should not be limited to emissions limitations, but should also include strategies such as closing or relocating sources and economic incentive programs. The commenter asked EPA to comment negatively on the control strategy in the 1999 Plan and to direct that all future measures be more specific and enforceable before federal credit is given.

Response: EPA agrees that the 1999 Plan's overall control strategy was inadequate for attainment and, as a result, is disapproving the plan. EPA is, however, approving the individual control measures in the plan because they strengthen the SIP. In any case, in the next planning effort for the Bay Area, the control strategy will have to be supplemented with additional measures needed for attainment and that are specific enough to be federally enforceable. Any future attainment demonstration will have to include sufficient control measures to reduce accurately projected motor vehicle emissions, and could include innovative control strategies as necessary to demonstrate attainment.

H. Comments on Proposed Approval of Contingency Measures

Comment: Counsel for Our Children's Earth and Communities for a Better Environment suggested that EPA revise its proposed approval of the contingency measures to a conditional approval, the condition being the requirement for additional contingency measures within one year.

Response: Contingency measures are intended to provide continued progress ''in the year following the year in which the failure has been identified'' (57 FR 13511, April 16, 1992). In the Bay Area, the contingency measures in the 1999 Plan have already been triggered. Under CAA section 179(d), a new plan, including additional contingency measures to be triggered in the future, is required to be submitted to EPA within one year after the effective date of the final finding of failure to attain.

Comment: Counsel for TRANSDEF asserted that the contingency measures failed to meet the criteria and purpose of the Act because such measures are intended to be measures above and beyond the ordinary control strategies that come into effect automatically in response to a missed milestone or a failure to attain.

Response: EPA has long held that control measures that are in excess of those projected as being required for timely attainment may be used to satisfy the contingency measure requirements of CAA section 172(c)(9) because the measures will provide for continued emission reduction progress beyond the core control strategy. See, *e.g.,* 58 FR 52467, 52473 (October 8, 1993).

I. Comments on Environmental Justice

Comment: Several commenters noted that the public engagement process is key to ensuring environmental justice. According to TRANSDEF, the environmental justice processes at the Air District and MTC are generally inadequate. Earthjustice noted that the time line for the upcoming plan revision is being driven by the wish to avert conformity consequences and is resulting in a rushed public process that compromises procedural environmental justice. Communities for a Better Environment commented on the need for a full public process (*i.e.,* sufficient public notification and adequate time) so that community members can identify and comment on transportation and stationary source control measures that should be adopted.

Response: EPA agrees that an effective public involvement process is important and that more public process and community input is preferable to less. Moreover, EPA is committed to the principles of environmental justice to ensure that all Americans have equal access to the decision making process. We believe that the public process for the 1999 Plan provided everyone the opportunity for meaningful involvement and met all legal requirements set out in CAA section 110(a) and 40 CFR part 51. Nonetheless, EPA is aware of the public's concerns and is continuing to encourage and support additional public involvement efforts by the State and local agencies.

J. Comments on Proposed Finding of Failure to Attain

Comment: Legal counsel for TRANSDEF contends that the Supreme Court decision in *Whitman* v. *American Trucking Association,* 149 L.Ed.2d 1, 31–48, 121 S.Ct. 903, dictates that EPA reconsider its position regarding the Bay Area's nonattainment designation under the general nonattainment provisions of Part D subpart 1 of the Act. This commenter asserts that the Bay Area should be designated as subject to the more prescriptive requirements of subpart 2 of part D and classified as ''severe'' to impose additional planning and SIP requirements.

Two commenters also argued that the Bay Area ought to be classified as a severe area due to the number of times it has failed to attain since the 1990 CAAA and the date by which it is now expected to attain the national ozone standard (i.e., 2006). It was suggested that EPA propose a severe classification in a separate rulemaking.

Response: The issue of whether subpart 1 or subpart 2 applies to the Bay Area was decided in the action redesignating the Bay Area from attainment to nonattainment for the 1-hour ozone NAAQS (63 FR 37258, July 10, 1998). *Whitman* v. *ATA* concerned the applicability of subpart 2 to the implementation of a revised ozone NAAQS, in this case the 8-hour standard. There is nothing in the Court's opinion to suggest that subpart 2 must apply to a redesignation from attainment to nonattainment for the 1-hour ozone NAAQS. Thus, at this time, EPA does not intend to reconsider its prior final decision regarding the applicable implementation provisions for the Bay Area. However, EPA is currently beginning efforts to respond to the Court's remand of the implementation issue for the 8-hour standard. If, in developing that policy, EPA reaches any conclusions that

would affect the basis for EPA's final rule determining that the Bay Area should implement the 1-hour standard under subpart 1, the Agency will reconsider its position with respect to the Bay Area at that time.

K. Comments on Consequences of Partial Disapproval

Comment: MTC stated that there are minor errors in EPA's discussion of the conformity freeze and lapse consequences of a plan disapproval. Specifically, in the event of a freeze, MTC asserted that it can still adopt its upcoming RTP even though a conformity finding cannot be made. In addition, MTC noted that EPA's list of projects that could proceed under a lapse was not exhaustive. The list could include: TCMs in approved SIPs, non-regionally significant non-federal projects, regionally significant non-federal projects that have already been approved prior to a lapse, previously conformed projects that have received funding commitments, exempt projects, projects under 40 CFR 93.127, and traffic synchronization projects. MTC also stated that regionally significant transit expansion projects such as light rail extensions and bus fleet expansions not yet under contract cannot proceed under a lapse.

Response: Although MTC makes some valid points, MTC is not entirely correct. In nonattainment and maintenance areas, a metropolitan planning organization (MPO) must demonstrate that a transportation plan conforms to the SIP before the transportation plan can be approved. During a conformity freeze, no new transportation plans can be found to conform pursuant to 40 CFR 93.120(a)(2). Please note that a transportation plan or transportation improvement program (TIP) amendment can be approved during the freeze if it merely adds or deletes exempt projects specified in 40 CFR 93.126 and 93.127. Rail and bus expansions can proceed if they are implementing TCMs in the SIP or if they only involve minor expansions of rail car or bus fleets (40 CFR 93.126).

Comment: Counsel for Our Children's Earth and Communities for a Better Environment presented an argument that EPA's disapproval should trigger a construction ban pursuant to CAA section 173(a)(4). The rationale provided was that EPA's disapproval is essentially equivalent to a finding that the SIP is not being adequately implemented. Alternatively, counsel requested that EPA issue the following two orders: (1) An order prohibiting construction or modification of any major source, and (2) an order requiring the BAAQMD to promulgate a rule that places CAA section 173(a)(4) authority in the Bay Area's permitting program.

Response: The CAA separately identifies a plan disapproval and the finding of failure to implement the SIP, and the underlying premise of each is different. A plan disapproval simply means that a specific SIP submission does not meet the applicable requirements of the CAA. See CAA section 110(k)(3). Thus those rules or plans are not incorporated into the approved SIP. A finding of failure to implement, however, concerns whether a state is implementing the requirements of an *approved* plan. Thus the failure of a state to have approved rules meeting all of the Act's requirements (as evidenced by a disapproval) is not the equivalent of a failure to implement measures or requirements that EPA has approved as meeting the CAA. In this action, there is clearly no finding that the State is not implementing provisions approved into the SIP, and hence, the restrictions on permitting set forth in section 173(a)(4) do not apply. EPA is disapproving portions of a plan and thus the consequences of disapproval will apply.

L. Comments on Requirement for a New Plan

Comment: Several commenters expressed concern that EPA seemed to be rushing the Bay Area into another planning process and was not providing sufficient guidance for the next plan.

Response: Under CAA section 179(d), the Bay Area has one year from the effective date of the finding of failure to attain to submit a new attainment plan. The State and local agencies have accelerated their plan development process, apparently in order to avoid the consequences of a conformity lapse which will take effect January 2002 if the Plan's deficiencies are not corrected by that time. EPA is doing its best to be responsive to the State's concerns and schedule while at the same time providing meaningful input to ensure a viable plan.

Comment: A number of commenters suggested that EPA should exercise its CAA section 179(d)(2) authority to prescribe control measures. Specific suggestions include measures that target stationary sources located within low income communities of color; public transit measures; measures that address issues such as urban sprawl, land use, and growth in vehicle miles traveled; and any other measures identified through public comment.

Response: It is difficult for EPA to prescribe specific control measures in the Bay Area where both stationary and mobile source controls meet, and often exceed, federal requirements and where innovative programs and emerging technologies will be needed for future emissions reductions. Control measures currently under development in the South Coast region (the only ''extreme'' ozone area in the country) and at CARB are already being targeted for future Bay Area plans. Initiatives to address issues such as urban sprawl and land use are appropriately devised at the local and State levels. In light of these factors, EPA does not believe it would be reasonable to impose specific controls under CAA section 179(d)(2) until it first allows the local agencies and CARB to explore appropriate feasible measures for the area.

Comment: Members of the environmental community urged EPA to require urban airshed modeling for future plans and plan revisions.

Response: New urban airshed modeling will not be available until the 2003–2004 time frame. Moreover, as noted in section II.B. above, 40 CFR 51.112 allows the use of lesser models for areas not classified as serious and higher.

III. Final Action

EPA is finalizing the partial approval/partial disapproval of the 1999 Plan and the finding of failure to attain without any changes from the March 30, 2001 proposal.

A. Plan Elements Approved

EPA is approving the following portions of the 1999 Plan: The baseline emissions inventory; the RFP demonstration through 2000; the commitment to achieve 11 tons per day of additional VOC reductions from implementation of new control measures (see Table 1 below); and contingency measures for failure to attain in 2000 (see Table 2 below). EPA has determined that these plan elements meet the requirements of CAA section 172(c), EPA guidance and EPA's final redesignation rulemaking (63 FR 37258, July 10, 1998). EPA is also approving the removal of TCMs 6, 11, 12, and 16 (see Table 3 below) from the SIP for ozone purposes as EPA has concluded that the removal is consistent with sections 110(l) and 193 of the CAA.

TABLE 1.—NEW BAY AREA MEASURES

VOC Measure (BAAQMD Regulation Number)	Adoption date	Implementation date	Estimated VOC Reduction (tpd), 1995–2000
SS–01: Can and Coil Coating (8–11)	11/19/97	1/1/98, 1/1/2000	0.35
SS–02: Equipment Leaks at Refineries and Chemical Plants (8–18)	1/7/98	1/7/98	1.20
SS–03: Pressure Relief Devices (8–28)	12/17/97, 3/18/98	7/1/98	0.13
SS–04: Solvent Cleaning (8–16)	9/16/98	9/1/99	2.10
SS–05: Graphic Arts Operations (8–20)	3/2/99	7/1/99, 1/1/2000	0.80
SS–06: Polystyrene Manufacturing (8–52)	1999	6/2000	0.26
SS–07: Organic Liquid Storage: Low Emitting Retrofits for Slotted Guide Poles (8–5)	1999	6/2000	0.48
SS–08: Gasoline Dispensing Facilities (8–7)	1999	6/2000	3.20
SS–09/SS–10: Prohibit Aeration of Petroleum Contaminated Soil or Industrial Sludge at Landfills (8–40)	1999	6/2000	2.68
MS–01: Electric Golf Carts: Require New Golf Cart Purchases to be Electric (ARB State Rule)	1994	3/2000	0.1

TABLE 2.—BAY AREA CONTINGENCY MEASURES

Adopted Control Measure (BAAQMD Regulation or State/Federal Measure)	Estimated VOC Reductions (tpd)			Estimated NO_X Reductions (tpd)		
	2001	2002	2003	2001	2002	2003
Gasoline Dispensing Facilities (8–7)	0.5	0.9	1.1	.....	.....	.....
Graphic Arts Printing and Coating Operations (8–20)	0.8	0.7	0.7	.....	.....	.....
Aeration of Contaminated Soil and Removal of Underground Storage Tanks (8–40)	0.5	1.0	1.5	.....	.....	.....
On Road motor Vehicles—Light and Medium Duty Cars and Trucks (ARB)	14.4	26.8	39.1	16.8	26.4	35.3
On Road Motor Vehicles—Heavy Duty Trucks (ARB)	0.1	0.5	0.7	3.3	5.0	6.7
Off Road Mobile Sources (ARB)	0.1	0.1	0.2	3.8	7.8	9.5
Gasoline-Powered Recreational Boats—Exhaust Emission Standards (EPA)	0.7	1.6	3.6	(.1)	(.1)	(.2)
Stationary Internal Combustion Engines (9–8)	.....	.....	.....	1.0	1.0	0.9
Stationary Gas Turbines (9–9)	.....	.....	.....	0.9	0.9	0.8
Glass Melting Furnaces (9–12)	.....	.....	.....	0.2	0.2	0.1

TABLE 3.—TCMS DELETED FROM THE SIP

TCM 6 ..	Construction of Guadalupe light rail in Santa Clara County and design work for the North Concord BART extension and Warm Springs extension.
TCM 11	Gasoline Conservation Awareness Program (GasCAP).
TCM 12	Santa Clara Commuter Transportation Program.
TCM 16	Construction of BART extension to Colma.

B. Plan Elements Disapproved

EPA is disapproving the attainment assessment in the 1999 Plan because monitored air quality indicates that the attainment projections were not realized; that is, the area failed to attain the ozone NAAQS by November 15, 2000 (CAA section 172(c)(1)). This disapproval does not include a protective finding for the motor vehicle emissions budget because the budget is not consistent with attainment. EPA is also disapproving the RACM demonstration as not meeting the requirements of CAA section 172(c)(1) for the reasons explained above.

C. Finding of Failure To Attain

EPA is finding, pursuant to CAA section 179(c), that the Bay Area failed to attain the federal 1-hour ozone standard by its November 15, 2000 attainment deadline.

D. Consequences of Final Action

The effective date of the final disapproval starts an 18-month clock for the imposition of sanctions pursuant to CAA section 179(a) and 40 CFR 52.31, and a 2-year clock for EPA to promulgate a FIP under CAA section 110(c)(1). The disapproval also activates a conformity freeze under 40 CFR 93.120(a)(2). 62 FR 43796, August 15, 1997. The sanctions and FIP clocks can be stopped once the State corrects the 1999 Plan deficiencies and EPA approves the revisions. The freeze will be lifted once EPA receives an approvable budget and finds it adequate.

In response to the finding of failure to attain, the State is required to submit a SIP revision for the Bay Area to EPA by September 20, 2002 (CAA section 179(d)(1)) that meets the requirements of CAA sections 110 and 172 and provides for attainment ''as expeditiously as practicable'' but no later than September 20, 2006.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''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.''

The Agency has determined that the determination of nonattainment and SIP approval and disapproval would result in none of the effects identified in section 3(f) of the Executive Order. The determination of nonattainment is a factual finding based upon air quality considerations and does not, in and of itself, impose any new requirements on any sectors of the economy. SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply act on requirements that the State is already imposing. This SIP disapproval will not change existing requirements and does not impose any new requirements. Therefore, these actions cannot be said to impose a materially adverse impact on state, local, or tribal governments or communities.

B. Executive Order 13211

These actions are not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because they do not constitute a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. These actions are not subject to Executive Order 13045 because they are not economically significant regulatory actions as defined by Executive Order 12866.

D. Executive Order 13175

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

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The SIP approval and disapproval do not affect any existing requirements or impose any new requirements. The determination of nonattainment is a factual determination and does not directly regulate any entity.

E. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply act on requirements that the State is already imposing. The determination of nonattainment is only a factual determination, and does not directly regulate any entities. See 62 FR 60001, 60007–8, and 60010 (November 6, 1997) for additional analysis of the RFA implications of attainment determinations.

EPA's disapproval does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements.

Therefore, pursuant to 5 U.S.C. 605(b), I certify that today's final rule does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

F. Unfunded Mandates Reform Act

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

As discussed above, the finding of nonattainment is a factual determination based upon air quality considerations and does not, in and of itself, impose any new requirements. The SIP approval simply acts on pre-existing requirements under State or local law, and imposes no new requirements. The SIP disapproval will not change existing requirements and imposes no new requirements. Thus, these actions do not constitute a Federal mandate, as defined in section 101 of the UMRA, because they do not impose an enforceable duty on any entity.

G. Executive Order 13132

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

This determination of nonattainment, SIP approval and disapproval will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because the actions do not, in and of themselves, impose any new requirements on any sectors of the economy, and do not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to these actions.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's actions do not involve technical standards and do not require the public to perform activities conducive to the use of voluntary consensus standards.

I. Submission to Congress and 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 United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: August 28, 2001.

Christine Todd Whitman,

Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(283) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(283) San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard, June 1999, was submitted on August 13, 1999 by the Governor's designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(*1*) Tables 10 and 12 of the San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard, June 1999, which detail the commitment to adopt and implement any combination of new control measures to achieve 11 ton per day reduction in VOC emissions by June 2000.

(*2*) Contingency measures, Table 18, ''Post-Attainment Year (2000–2003) Inventory Reductions Reflected in the SIP''.

2. Section 52.223 is amended by adding paragraph (e) to read as follows:

§ 52.223 Approval status.

* * * * *

(e) The Administrator approves the following portions of the 1999 Ozone Attainment Plan for the San Francisco Bay Area submitted by the California Air Resources Board on August 13, 1999: the 1995 baseline emissions inventory, the reasonable further progress demonstration, and the deletion of transportation control measures #6 and #16.

3. Section 52.237 is amended by adding paragraph (a)(6) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(6) The attainment assessment, motor vehicle emissions budgets, and Reasonably Available Control Measure (RACM) portions of the San Francisco Bay Area Ozone Attainment Plan for the 1–Hour National Ozone Standard, June 1999.

[FR Doc. 01–22125 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4121a; FRL–7059–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for the Latrobe Steel Company in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve a revision to establish reasonably available control technology (RACT) requirements for the Latrobe Steel Company, a major source of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 10, 2001 (66 FR 42123), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action

based upon the proposed action also published on August 10, 2001 (66 FR 42172). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(158) is withdrawn as of September 20, 2001.

[FR Doc. 01–23484 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4130a; FRL–7060–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for four major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 10, 2001 (66 FR 42136), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 10, 2001 (66 FR 42187). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(166) is withdrawn as of September 20, 2001.

[FR Doc. 01–23493 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4125a; FRL–7059–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Three Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for three major sources of volatile organic compounds (VOC) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 10, 2001 (66 FR 42133), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 10, 2001 (66 FR 42186). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(162) is withdrawn as of September 20, 2001.

[FR Doc. 01–23492 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–101/178–4124a; FRL–7059–8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for five major sources of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 10, 2001 (66 FR 42128), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 10, 2001 (66 FR 42186). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(161) is withdrawn as of September 20, 2001.

[FR Doc. 01–23491 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4123a; FRL–7059–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Two Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for two major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 9, 2001 (66 FR 41793), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 9, 2001 (66 FR 41823). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(160) is withdrawn as of September 20, 2001.

[FR Doc. 01–23490 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4122a; FRL–7059–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for the Allegheny Ludlum Corporation's Brackenridge Facility in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve a revision to establish reasonably available control technology (RACT) requirements for the Allegheny Ludlum Corporation's Brackenridge facility. This facility is a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 9, 2001 (66 FR 41789), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 9, 2001 (66 FR 41822). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(159) is withdrawn as of September 20, 2001.

[FR Doc. 01–23489 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[OR–00–002a; FRL–7044–9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to Oregon's State Implementation Plan (SIP) which were submitted on November 20, 2000. These revisions consist of the 1996 carbon monoxide (CO) periodic emissions inventory for Klamath Falls, Oregon, and the Klamath Falls CO maintenance plan. Oregon concurrently requested redesignation of Klamath Falls from nonattainment to attainment for CO. EPA is approving the State's request because it meets all of the Clean Air Act (ACT) requirements for redesignation.

DATES: This direct final rule will be effective on November 19, 2001 without further notice, unless EPA receives adverse comment by October 22, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Connie Robinson, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's requests and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–1086.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever ''we,'' ''us,'' or ''our'' is used, we mean the Environmental Protection Agency (EPA). This supplementary information is organized as follows:

I. Background Information

A. What Action Is EPA Taking?

Today's rulemaking announces three actions being taken by EPA related to air quality in the State of Oregon. These actions are taken at the request of the Governor of Oregon in response to Act requirements and EPA regulations.

First, EPA approves the 1996 periodic CO emissions inventory for Klamath Falls. The 1996 inventory establishes a baseline of emissions that EPA considers comprehensive and accurate and provides the foundation for air quality planning in the Klamath Falls, Oregon nonattainment area.

Second, EPA approves the CO maintenance plan for the Klamath Falls nonattainment area into the Oregon SIP.

Third, EPA redesignates Klamath Falls from nonattainment to attainment for carbon monoxide. This redesignation is based on validated monitoring data and projections made in the maintenance plan's demonstration. EPA believes the area will continue to meet the National Ambient Air Quality Standards (NAAQS) for CO for at least ten years beyond this redesignation, as required by the Act.

B. What Is a State Implementation Plan?

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that State air quality meets the NAAQS established by the EPA. These ambient standards are established under section 109 of the Act and they address six criteria pollutants: CO, nitrogen dioxide, ozone, lead, particulate matter and sulfur dioxide.

Each State must submit these regulations and control strategies to us for approval and incorporation into the Federally enforceable SIP. Each State has a SIP designed to protect its air quality. These SIPs can be extensive, containing regulations, enforceable emission limits, emission inventories, monitoring networks, and modeling demonstrations.

Oregon submitted their original section 110 SIP on January 25, 1972 and it was approved by EPA soon thereafter. Other SIP revisions have been submitted over the intervening years and likewise have been approved. The Klamath Falls CO SIP revisions and redesignation request submitted on November 20, 2000, are the subject of today's action.

C. Why Was This SIP Revision and Redesignation Request Submitted?

Upon enactment of the 1990 Clean Air Act Amendments, a new classification scheme was created which established attainment dates and planning requirements according to the severity of nonattainment. The Klamath Falls nonattainment area was designated a moderate nonattainment area for CO on January 6, 1992. This designation was the result of 1988 and 1989 ambient air quality monitoring data that showed violations of the CO NAAQS. The attainment deadline became December 31, 1995, or as expeditiously as practicable.

Oregon believes that the Klamath Falls, Oregon area is now eligible for redesignation because air quality data shows that it has not recorded a violation of the primary or secondary CO air quality standards since 1990. The maintenance plan demonstrates that Klamath Falls will be able to remain in attainment for the next 10 years.

II. Basis for EPA's Action

A. What Criteria Did EPA Use To Review the Maintenance Plan and Redesignation Request?

Section 107(d)(3)(E) of the Act states that EPA can redesignate an area to attainment if the following conditions are met:

1. The area must attain the applicable NAAQS.

2. The area must have a fully approved SIP under 110(k) of the Act and the area must meet all the relevant requirements under section 110 and part D of the act.

3. The air quality improvement must be permanent and enforceable.

4. The area must have a fully approved maintenance plan pursuant to section 175A of the Act.

EPA has found that the Oregon redesignation request for the Klamath Falls, Oregon nonattainment area meets the above requirements. A Technical Support Document on file at the EPA Region 10 office contains a detailed analysis and rationale in support of the redesignation of Klamath Fall's CO nonattainment area to attainment.

B. How Does the State Show That the Area Has Attained the CO NAAQS?

To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard per year for at least two consecutive years. The redesignation of Klamath Falls is based on air quality data that shows that the CO standard was not violated from 1990 through 1995, or since. These data were collected by the Oregon Department of Environmental Quality (ODEQ) in accordance with 40 CFR 50.8, following EPA guidance on quality assurance and quality control and are entered in the EPA Aerometric Information and Retrieval System, or AIRS. Since the Klamath Falls, Oregon area has ten years of complete quality-assured monitoring data showing attainment with no violations, the area has met the statutory criterion for attainment of the CO NAAQS. ODEQ has committed to continue monitoring in this area in accordance with 40 CFR part 58.

C. Does the Area Have a Fully Approved SIP Under Section 110(k) of the Act and Has the Area Met All the Relevant Requirements Under Section 110 and Part D of the Act?

Klamath Falls was classified as a nonattainment area with a design value less than 12.7 parts per million (ppm). Therefore, the 1990 requirements applicable to the Klamath Falls nonattainment area for inclusion in the

Oregon SIP include the preparation of a 1990 emission inventory with periodic updates, adoption of an oxygenated fuels program, development of contingency measures, development of conformity procedures, and the establishment of a permit program for new or modified major stationary sources.

For the purposes of evaluating the request for redesignation to attainment, EPA has previously approved all but one element of the Oregon SIP. Section 187(a) of the Act requires moderate CO areas to submit a comprehensive, accurate, and current inventory of actual emissions from all sources as described in the nonattainment area provision section 172(c)(3). Specifically, the 1990 emissions inventory was reviewed but not acted upon to allow for additional correction and revision. We later determined that a 1996 inventory that incorporated these changes would satisfy the requirement for a base year inventory and would also serve as the periodic emissions inventory submitted with the maintenance plan. Today's action approves this required element of the 110 SIP as part of the Oregon SIP concurrently with the redesignation to attainment.

D. Are the Improvements in Air Quality Permanent and Enforceable?

Yes. EPA is approving Klamath Falls' maintenance plan as meeting the requirements of the 1990 amendments. Emissions reductions achieved through the implementation of control measures contained in that SIP are enforceable. These measures are: (1) The Federal Motor Vehicle Control Program, establishing emission standards for new motor vehicles; and (2) an oxygenated fuels program. The Klamath Falls area initially attained the NAAQS in 1991 (prior to the implementation of the oxygenated fuels program in November 1992) and the plan cites monitoring data in AIRS which shows continued attainment through 2000.

ODEQ has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to a local economic downturn or unusual or extreme weather patterns. We believe the combination of certain existing EPA-approved SIP and Federal measures contributed to permanent and enforceable reductions in ambient CO levels that have allowed the area to attain the NAAQS.

E. Has the State Submitted a Fully Approved Maintenance Plan Pursuant to Section 175A of the Act?

Yes. Section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. With this action, EPA is approving the maintenance plan for the Klamath Falls area.

F. Did the State Provide Adequate Attainment Year and Maintenance Year Emissions Inventories?

Yes. ODEQ submitted comprehensive inventories of CO emissions from point, area and mobile sources using 1996 as the attainment year. This data was then used in calculations to demonstrate that the CO standard will be maintained in future years. Since air monitoring recorded attainment levels of CO in 1996, this is an acceptable year for the attainment inventory.

Based on the CO emissions in the attainment year (1996), ODEQ calculated inventories for the required maintenance year (2011) and four years beyond (2015). Future emission estimates are based on forecast assumptions about growth of the regional economy and vehicle miles traveled.

Mobile sources are the greatest source of carbon monoxide. Although vehicle use is expected to increase in the future, more stringent Federal automobile standards and removal of older, less efficient cars over time will still result in an overall decline in CO emissions. The projections in the maintenance plan demonstrate that future emissions are not expected to exceed attainment year levels.

Total CO emissions were projected from the 1996 attainment year out to 2015. These projected inventories were prepared according to EPA guidance. Because compliance with the 8-hour CO standard is linked to average daily emissions, emission estimates reflecting a typical winter season day (pounds of CO per day) were used for the maintenance demonstration. Oregon calculated these emissions without the implementation of the oxygenated fuels program. Oregon is requesting that the SIP requirement for an oxygenated fuels program be discontinued upon EPA's approval of the maintenance plan and redesignation. The projections show that CO emissions calculated without the implementation of the oxygenated fuels program are not expected to exceed 1996 attainment year levels. The following table summarizes the attainment year and maintenance year emissions.

TABLE 1.—1996 CO ATTAINMENT YEAR ACTUAL EMISSIONS AND 2011 CO MAINTENANCE YEAR PROJECTED EMISSIONS

[Pounds CO/Winter Day]

Year	Mobile	Area	Non-road	Point	Total
1996 Attainment Year Actuals	26,734	11,586	4,074	3,923	46,316
2011 Maintenance Year Projected	24,102	12,409	4,861	3,671	45,044

Detailed inventory data for this action is contained in the docket maintained by EPA.

G. How Will This Action Affect the Oxygenated Fuels Program in Klamath Falls?

ODEQ's maintenance demonstration shows that the Klamath Falls Urban Growth Boundary (UGB) is expected to continue to meet the CO NAAQS through 2015 without the oxygenated fuels program, while maintaining a safety margin. Therefore, EPA approves the State's request to discontinue the oxygenated fuels program. The oxygenated fuels program will not need to be implemented following redesignation unless a future violation of the standard triggers its use as a contingency measure in accordance with the approved maintenance plan.

H. How Will the State Continue To Verify Attainment?

In accordance with 40 CFR part 50 and EPA's Redesignation Guidance,

ODEQ has committed to analyze air quality data on an annual basis to verify continued attainment of the CO NAAQS. ODEQ will also conduct a comprehensive review of plan implementation and air quality status eight years after redesignation. The State will then submit a SIP revision that includes a full emissions inventory update and provides for the continued maintenance of the standard ten years beyond the initial ten-year period.

I. What Contingency Measures Does the State Provide?

Section 175A(d) of the Act requires retention of all control measures contained in the SIP prior to redesignation as contingency measures in the CO maintenance plan.

Since the oxygenated fuels program was a control measure contained in the SIP prior to redesignation, the SIP retains oxygenated fuels as the primary contingency measure in the maintenance plan.

This contingency measure will be triggered in the event of a quality-assured violation of the NAAQS for CO at any permanent monitoring site in the nonattainment area. A violation will occur when any monitoring site records two eight-hour average CO concentrations that equal or exceed 9.5 ppm in a single calendar year. This contingency measure will require all gasoline blended for sale in Klamath Falls to meet requirements identical to those of the current oxygenated gasoline program.

The oxygenated fuels program will be fully implemented no later than the next full winter season following the date when the contingency measure was activated. Implementation will continue throughout the balance of the CO maintenance period, or until such time as a reassessment of the ambient CO monitoring data establishes that the contingency measure is no longer needed.

EPA is approving the conversion of the oxygenated fuels program from a control measure to a contingency measure for the Klamath Falls area.

J. How Will the State Provide for Subsequent Maintenance Plan Revisions?

In accordance with section 175A(b) of the Act, the state has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. That revised SIP must provide for maintenance of the standard for an additional ten years.

The plan states that ODEQ will likely conduct its first revision of the plan in 2009. It will include a full emissions inventory update and projected emissions demonstrating continued attainment for ten additional years.

K. How Does This Action Affect Transportation Conformity in Klamath Falls?

Under section 176(c) of the Act, transportation plans, programs, and projects in nonattainment or maintenance areas that are funded or approved under 23 U.S.C. or the Federal Transit Act, must conform to the applicable SIPs. In short, a transportation plan is deemed to conform to the applicable SIP if the emissions resulting from implementation of that transportation plan are less than or equal to the motor vehicle emission level established in the SIP for the maintenance year and other analysis years.

In this maintenance plan, procedures for estimating motor vehicle emissions are well documented. For transportation conformity and regional emissions analysis purposes, an emissions budget has been established for on-road motor vehicle emissions in the Klamath Falls UGB. The transportation emissions budget numbers for the plan are shown in Table 2.

TABLE 2.—KLAMATH FALLS UGB TRANSPORTATION EMISSIONS BUDGET THROUGH 2015

[Pounds CO/Winter Day]

Year	1996	2000	2005	2010	2015
Budget	26,734	26,362	26,116	25,498	24,880

L. How Does This Action Affect Specific Rules?

Upon the effective date of this action, Klamath Falls will no longer be a nonattainment area, and will become a maintenance area. Therefore, OAR 340–204–0030, Designation of Nonattainment Areas, and OAR 340–204–0040, Maintenance Areas, have been revised to reflect this change. Additionally, OAR 340–204–0090, Oxygenated Gasoline Control Areas, has been revised to discontinue the program in Klamath Falls upon the effective date of this action. EPA is approving these rules as revisions to the SIP and replacing the rules dated 10–22–99.

Below is a list of the specific rule revisions affected by this action which EPA is incorporating by reference into the SIP, with the state effective date in parentheses.

OAR 340–204–0030, Designation of Nonattainment Areas (10–25–00)

OAR 340–204–0040, Maintenance Areas (10–25–00)

OAR 340–204–0090, Oxygenated Gasoline Control Areas (10–25–00)

III. Final Action

EPA is approving the following revisions to the Oregon SIP: the 1996 CO periodic emissions inventory for Klamath Falls, Oregon, and the Klamath Falls CO maintenance plan. EPA is also redesignating Klamath Falls, Oregon from nonattainment to attainment for CO. EPA is approving the Klamath Falls CO maintenance plan and Oregon's request for redesignation to attainment because Oregon has demonstrated compliance with the requirements of section 107(d)(3)(E). The Agency believes that the redesignation requirements are effectively satisfied based on information provided by ODEQ and requirements contained in the Oregon SIP and maintenance plan.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP will be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that

EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

C. Executive Order 13132

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

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. Executive Order 13175

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

E. Executive Order 13211

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.

F. Regulatory Flexibility

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

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Additionally, redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

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

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

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective November 19, 2001, unless EPA receives adverse written comments by October 22, 2001.

I. National Technology Transfer and Advancement Act

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

would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. 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 November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

K. Oregon Notice Provision

During EPA's review of a SIP revision involving Oregon's statutory authority, a problem was detected which affected the enforceability of point source permit limitations. EPA determined that, because the five-day advance notice provision required by ORS 468.126(1) (1991) bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority that a state must demonstrate to obtain SIP approval, as specified in section 110 of the Clean Air Act and 40 CFR 51.230. Accordingly, the requirement to provide such notice would preclude Federal approval of a section 110 SIP revision.

To correct the problem the Governor of Oregon signed into law new legislation amending ORS 468.126 on September 3, 1993. This amendment added paragraph ORS 468.126(2)(e) which provides that the five-day advance notice required by ORS 468.126(1) does not apply if the notice requirement will disqualify a state program from Federal approval or delegation. ODEQ responded to EPA's understanding of the application of ORS 468.126(2)(e) and agreed that, because Federal statutory requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of SIP requirements contained in permits.

L. Oregon Audit Privilege

Another enforcement issue concerns Oregon's audit privilege and immunity law. Nothing in this action should be construed as making any determination or expressing any position regarding Oregon's Audit Privilege Act, ORS 468.963 enacted in 1993, or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act Program resulting from the effect of Oregon's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 21, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are 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 MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(136) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(136) On November 20, 2000, the Oregon Department of Environmental Quality requested the redesignation of Klamath Falls to attainment for carbon monoxide. The State's maintenance plan and base year emissions inventory are complete and the redesignation satisfies all the requirements of the Clean Air Act.

(i) Incorporation by reference.

(A) Oregon Administrative Rule (OAR) 340–204–0030, OAR 340–204–0040, and OAR 340–204–0090, as effective October 25, 2000.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.338, the table entitled ''Oregon—Carbon Monoxide'' is amended by revising the entry for ''Klamath Falls Area'' to read as follows:

§ 81.38 Oregon.

* * * * *

OREGON—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
Klamath Falls Area, Klamath County (part) * * * Urban Growth Boundary.	November 19, 2001	Attainment		
* * * * * * *				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 01–23218 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[CA–035–MSWa; FRL–7058–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the California State Plan for implementing the emissions guidelines applicable to existing municipal solid waste landfills. The Plan was submitted by the California Air Resources Board for the State of California to satisfy requirements of section 111(d) of the Clean Air Act.

DATES: This direct final rule is effective on November 19, 2001 without further notice, unless EPA receives relevant adverse comments by October 22, 2001. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the submitted revision and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted revision are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814

FOR FURTHER INFORMATION CONTACT: Mae Wang, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Clean Air Act (CAA or the Act), EPA has established procedures whereby States submit plans to control certain existing sources of ''designated pollutants.'' Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111 but which are not ''criteria pollutants'' (*i.e.,* pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates new source performance standards (NSPS) that control a designated pollutant, EPA establishes emission guidelines (EG) in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (*i.e.,* the ''designated facility'' as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B (40 CFR 60.23 through 60.26).

On March 12, 1996, EPA promulgated NSPS for new municipal solid waste (MSW) landfills at 40 CFR part 60, subpart WWW (Standards of Performance for Municipal Solid Waste Landfills) and EG for existing MSW landfills at 40 CFR part 60, subpart Cc (Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) (see 61 FR 9905). The pollutants regulated by the NSPS and EG are MSW landfill emissions, which contain a mixture of volatile organic compounds (VOC), other organic compounds, methane, and HAPs.

VOC emissions contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOC) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.32c) for which construction, reconstruction or modification was commenced before May 30, 1991.

On September 26, 1997, the California Air Resources Board (CARB) submitted to EPA the California State Plan for implementing 40 CFR part 60, subpart Cc. CARB submitted amendments to the California State Plan on June 26, 1998; November 9, 1998; and July 14, 1999. The submitted Plan controls existing MSW landfills in sixteen (16) air districts. EPA approved the California State Plan on September 23, 1999 (see 64 FR 51447).

II. Revision to the California State Plan

On December 20, 2000, CARB submitted a revision to the approved California State Plan. The revision adds landfill regulations for Mojave Desert Air Quality Management District (MDAQMD) and Bay Area Air Quality Management District (BAAQMD), and amends landfill regulations for South Coast Air Quality Management District (SCAQMD) and Ventura County Air Pollution Control District (VCAPCD). The submitted revision to the EPA-approved State Plan contains the following landfill regulations:

District	Rule Number and Name	Adoption date
BAAQMD	8–34 Solid Waste Disposal Sites	10/6/99
MDAQMD	1126 Municipal Solid Waste Landfills	8/28/00
SCAQMD	1150.1 Control of Gaseous Emissions from Municipal Solid Waste Landfills	3/17/00
VCAPCD	74.17.1 Municipal Solid Waste Landfills	2/9/99

EPA has evaluated each of these regulations and has determined that they meet the federal guidelines for controlling existing MSW landfills, as set forth in 40 CFR part 60, subpart Cc. The submitted revision to the California 111(d) Plan for controlling MSW landfill gas emissions meets all applicable requirements for approval.

III. Final Action

EPA is approving the revision to the State of California section 111(d) plan for the control of landfill gas emissions from existing MSW landfills.[1] As provided by 40 CFR 60.28(c), any revisions to the California State Plan or associated regulations will not be considered part of the applicable plan until submitted by CARB in accordance with 40 CFR 60.28 (a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B. Upon the effective date of this approval, the submitted revision will update the State Plan with the current versions of SCAQMD and VCAPCD regulations and add regulations for BAAQMD and MDAQMD. Moreover, MSW landfills located in BAAQMD and MDAQMD will no longer be subject to the Federal Plan (40 CFR part 62, subpart GGG) upon the effective date of this approval.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the 111(d) plan revision should relevant adverse or critical comments be filed. This rule will be effective November 19, 2001 without further notice unless the Agency receives relevant adverse comments by October 22, 2001.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will be addressed 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 on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 19, 2001 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any section 111(d) plan. Each request for revision to the section 111(d) plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

[1] The State did not submit evidence of authority to regulate existing MSW landfills in Indian Country; therefore, EPA is not approving this Plan as it relates to those sources.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). 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 State Plan submissions under section 111(d) of the Clean Air Act, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 2, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

Title 40, chapter I, part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 62.1100 is amended by adding paragraph (b)(5)(i) to read as follows:

§ 62.1100 Identification of plan.

* * * * *

(b) * * *

(5) * * *

(i) Revision to the State of California's Section 111(d) Plan for Existing Municipal Solid Waste Landfills, submitted by the California Air Resources Board on December 20, 2000.

[FR Doc. 01–23479 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–7059–3]

Clean Air Act Full Approval of Operating Permits Program in Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; withdrawal.

SUMMARY: On July 26, 2001, the EPA published a direct final rule (66 FR 38940) approving, and an accompanying proposed rule (66 FR 38966) proposing to approve, the operating permits program submitted by the State of Alaska. Alaska's operating permits program was submitted in response to the directive in the Clean Air Act that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

EPA is withdrawing this final rule due to the adverse public comments received on the proposed approval. In a subsequent final rule, EPA will summarize and respond to the comments received and take final rulemaking action on the operating permits program submitted by the State of Alaska.

DATES: The direct final rule published at 66 FR 38940 (July 26, 2001) is withdrawn September 20, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Denise Baker, Office of Air Quality (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–8087.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 13, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

Accordingly, under the authority of 42 U.S.C. 7401–7671q, the direct final rule published on July 26, 2001 (66 FR 38940) is withdrawn.

[FR Doc. 01–23474 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–11, 102–193, 102–194, and 102–195

[FPMR Amendment B–1]

RIN 3090–AG02

Federal Records Management Program, Interagency Reports Management Program, and Standard and Optional Forms Management Program

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by moving coverage on creation, maintenance, and use of records into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Effective October 22, 2001.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, Strategic IT Issues Division (MKB), at 202–501–4469, or Internet e-mail at *stewart.randall@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

This final rule encourages Federal agencies to conduct business electronically. Part 102–193, *Creation, Maintenance, and Use of Records,* is being added to the FMR to provide a foundation for General Services Administration (GSA) programs that helps address problems in the management of contemporary records. Both GSA and the National Archives and Records Administration (NARA) have responsibilities for records management. This final rule references appropriate NARA regulations.

This final rule also makes changes in the operation of the Standard and Optional Forms Program. The Federal Government is moving toward greater use of information technology to allow improved customer service and Governmental efficiency. The Government Paperwork Elimination Act requires agencies to adopt electronic transactions of information by October, 2003, when practicable. This vision contemplates widespread use of the Internet, with Federal agencies transacting business electronically as commercial enterprises are doing. Members of the public who want to do business this way can avoid traveling to Government offices, waiting in line, or mailing paper forms. The Federal Government can also save significant time and money by transacting business electronically.

Therefore, this rule is intended to facilitate the movement of the Federal Government toward greater automation of the information exchanged using standard and optional forms. This rule also addresses management of standard and optional forms (in either paper or electronic form) and defines standard and optional automated formats. Normally, the most efficient exchange of information is done using automated formats. Thus, this rule encourages agencies, where appropriate, to use automated formats.

Often, an important intermediate step in the Federal Government's evolution to transacting business electronically is the development and use of electronic standard and optional forms. Such forms, while not fully electronic business transactions, can make paper-based information exchanges substantially easier and introduce significant efficiencies for the Federal Government. The part on standard and optional forms encourages the use of electronic forms by Federal agencies to facilitate paper-based transactions, pending their automation. To do that, this rule establishes the policy that agencies should promote the use of electronic standard forms whenever practicable. To assist agencies in assessing practicability, GSA is proposing that paper transactions continue when standard forms are for specialized use (e.g., labels), when there are special security or integrity concerns (*e.g.,* classification cover sheets), and when there are unusual production costs (*e.g.,* special envelopes). The Standard and Optional Forms Procedural Handbook includes a list of those forms that have been exempted from the policy in accordance with these criteria.

This rule also makes changes to the Interagency Reports Management Program to shorten the time between when an agency determines a need for interagency information and when the agency can initiate an interagency report to obtain that information. Agencies will no longer have to get GSA's approval

before initiating an interagency report. This change lets agencies take advantage of information technology to get the information they need to accomplish their missions.

When authorized by law and regulation, agencies are encouraged to share information, particularly as an alternative to collecting additional information from the public. This change is intended to facilitate agencies sharing needed information.

As a general rule, it is more efficient for agencies to share information in electronic form. While paper-based reporting, including electronic forms, may still be used, it is preferable that interagency reports be provided electronically between agencies. Agencies, however, are asked to give GSA information such as the name and the cost of each of their interagency reporting requirements. This information will be placed on our web site at *www.gsa.gov* and made available to Federal agencies.

A proposed rule was published on August 9, 2000, at 65 FR 48655. Three comments were received and considered in the formation of this final rule.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only applies to internal management and will not have a significant impact on the public.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–11, 102–193, 102–194, and 102–195

Archives and records, Computer technology, Government property management.

For the reasons set forth in the preamble, 41 CFR chapters 101 and 102 are amended as follows:

CHAPTER 101—[AMENDED]

1. Subchapter B consisting of part 101–11 is added to read as follows:

Subchapter B—Management and Use of Information and Records

PART 101–11—FEDERAL RECORDS, INTERAGENCY REPORTS, AND STANDARD AND OPTIONAL FORMS

Authority: 40 U.S.C. 486(c).

§ 101–11.0 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 1 through 220).

For information on records, interagency reports, and standard and optional forms, see FMR parts 102–193, 102–194, and 102–195 (41 CFR parts 102–193, 102–194, and 102–195).

CHAPTER 102—[AMENDED]

2. Parts 102–193, 102–194, and 102–195 are added to subchapter G to read as follows:

PART 102–193—CREATION, MAINTENANCE, AND USE OF RECORDS

Sec.

Authority: 40 U.S.C. 486(c).

§ 102–193.5 What does this part cover?

This part prescribes policies and procedures related to the General Service Administration's (GSA) role to provide guidance on economic and effective records management for the creation, maintenance and use of Federal agencies' records. The National Archives and Records Administration Act of 1984 (the Act) (44 U.S.C. chapter 29) amended the records management statutes to divide records management responsibilities between GSA and the National Archives and Records Administration (NARA). Under the Act, GSA is responsible for economy and efficiency in records management and NARA is responsible for adequate documentation and records disposition. GSA regulations are codified in this part and NARA regulations are codified in 36 CFR Chapter XII. The policies and procedures of this part apply to all records, regardless of medium (e.g., paper or electronic), unless otherwise noted.

§ 102–193.10 What are the goals of the Federal Records Management Program?

The statutory goals of the Federal Records Management Program are:

(a) Accurate and complete documentation of the policies and transactions of the Federal Government.

(b) Control of the quantity and quality of records produced by the Federal Government.

(c) Establishment and maintenance of management controls that prevent the creation of unnecessary records and promote effective and economical agency operations.

(d) Simplification of the activities, systems, and processes of records creation, maintenance, and use.

(e) Judicious preservation and disposal of records.

(f) Direction of continuing attention on records from initial creation to final disposition, with particular emphasis on the prevention of unnecessary Federal paperwork.

§ 102–193.15 What are the records management responsibilities of the Administrator of General Services (the Administrator), the Archivist of the United States (the Archivist), and the Heads of Federal agencies?

(a) The Administrator of General Services (the Administrator) provides guidance and assistance to Federal agencies to ensure economical and effective records management. Records management policies and guidance established by GSA are contained in this part and in parts 102–194 and 102–195 of this chapter, records management handbooks, and other publications issued by GSA.

(b) The Archivist of the United States (the Archivist) provides guidance and assistance to Federal agencies to ensure adequate and proper documentation of the policies and transactions of the Federal Government and to ensure proper records disposition. Records management policies and guidance established by the Archivist are contained in 36 CFR Chapter XII and in bulletins and handbooks issued by the National Archives and Records Administration (NARA).

(c) The Heads of Federal agencies must comply with the policies and guidance provided by the Administrator and the Archivist.

§ 102–193.20 What are the specific agency responsibilities for records management?

You must follow both GSA regulations in this part and NARA regulations in 36 CFR Chapter XII to carry out your records management responsibilities. To meet the requirements of this part, you must take the following actions to establish and maintain the agency's records management program:

(a) Assign specific responsibility to develop and implement agencywide records management programs to an office of the agency and to a qualified records manager.

(b) Follow the guidance contained in GSA handbooks and bulletins and comply with NARA regulations in 36 CFR Chapter XII when establishing and implementing agency records management programs.

(c) Issue a directive establishing program objectives, responsibilities, authorities, standards, guidelines, and instructions for a records management program.

(d) Apply appropriate records management practices to all records, irrespective of the medium (e.g., paper, electronic, or other).

(e) Control the creation, maintenance, and use of agency records and the collection and dissemination of information to ensure that the agency:

(1) Does not accumulate unnecessary records while ensuring compliance with NARA regulations for adequate and proper documentation and records disposition in 36 CFR parts 1220 and 1228.

(2) Does not create forms and reports that collect information inefficiently or unnecessarily.

(3) Reviews all existing forms and reports (both those originated by the agency and those responded to by the agency but originated by another agency or branch of Government) periodically to determine if they can be improved or canceled.

(4) Maintains records economically and in a way that allows them to be retrieved quickly and reliably.

(5) Keeps mailing and copying costs to a minimum.

(f) Establish standard stationery formats and styles.

(g) Establish standards for correspondence to use in official agency communications, and necessary copies required, and their distribution and purpose.

§ 102–193.25 What type of records management business process improvements should my agency strive to achieve?

Your agency should strive to:

(a) Improve the quality, tone, clarity, and responsiveness of correspondence;

(b) Design forms that are easy to fill-in, read, transmit, process, and retrieve, and reduce forms reproduction costs;

(c) Provide agency managers with the means to convey written instructions to users and document agency policies and procedures through effective directives management;

(d) Provide agency personnel with the information needed in the right place, at the right time, and in a useful format;

(e) Eliminate unnecessary reports and design necessary reports for ease of use;

(f) Provide rapid handling and accurate delivery of mail at minimum cost; and

(g) Organize agency files in a logical order so that needed records can be found rapidly to conduct agency business, to ensure that records are complete, and to facilitate the identification and retention of permanent records and the prompt disposal of temporary records. Retention and disposal of records is governed by NARA regulations in 36 CFR Chapter XII.

PART 102–194—STANDARD AND OPTIONAL FORMS MANAGEMENT PROGRAM

Sec.

Authority: 40 U.S.C. 486(c).

§ 102–194.5 What is the Standard and Optional Forms Management Program?

The Standard and Optional Forms Management Program is a Governmentwide program that promotes economies and efficiencies through the development, maintenance and use of common forms. The General Services Administration (GSA) provides additional guidance on the Standard and Optional Forms Management Program through an external handbook called Standard and Optional Forms Procedural Handbook. You may obtain a copy of the handbook from:

Standard and Optional Forms Management Office General Services Administration (Forms-XR)
1800 F Street, NW.; Room 7126
Washington, DC 20405–0002
(202) 501–0581
http://www.gsa.gov/forms

§ 102–194.10 What is a Standard form?

A Standard form is a fixed or sequential order of data elements, prescribed by a Federal agency through regulation, approved by GSA for mandatory use, and assigned a Standard form number. This criterion is the same whether the form resides on paper or purely electronic.

§ 102–194.15 What is an Optional form?

An Optional form is approved by GSA for nonmandatory Governmentwide use and is used by two or more agencies. This criteria is the same whether the form resides on paper or purely electronic.

§ 102–194.20 What is an electronic Standard or Optional form?

An electronic Standard or Optional form is an officially prescribed set of data residing in an electronic medium that is used to produce a mirror-like image or as near to a mirror-like image as the creation software will allow of the officially prescribed form.

§ 102–194.25 What is an automated Standard or Optional format?

An automated Standard or Optional format is an electronic version of the officially prescribed form containing the same data elements and used for the electronic transaction of information in lieu of using a Standard or Optional form.

§ 102–194.30 What role does my agency play in the Standard and Optional Forms Management Program?

Your agency head or designee's role is to:

(a) Designate an agency-level Standard and Optional Forms Liaison representative and alternate, and notify GSA, in writing, of their names, titles, mailing addresses, telephone numbers, fax numbers, and e-mail addresses within 30 days of the designation or redesignation.

(b) Promulgate Governmentwide Standard forms under the agency's statutory or regulatory authority in the Federal Register, and issue procedures on the mandatory use, revision, or cancellation of these forms.

(c) Ensure that the agency complies with the provisions of the Government

Paperwork Elimination Act (GPEA) (Public Law 105–277, 112 Stat 2681), Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 74d), as amended, the Architectural and Transportation Barriers Compliance Board (Access Board) Standards (36 CFR part 1194), and OMB implementing guidance. In particular, agencies should allow the submission of Standard and Optional forms in an electronic/automated version unless the form is specifically exempted by § 102–194.40.

(d) Issue Governmentwide Optional forms when needed by two or more agencies and announce the availability, revision, or cancellation of these forms. Forms prescribed through a regulation for use by the Federal Government must be issued as a Standard form.

(e) Obtain GSA approval for each new, revised or canceled Standard and Optional form, 60 days prior to planned implementation. Certify that the forms comply with all applicable laws and regulations. Provide an electronic form unless exempted by § 102–194.40. Revised forms not approved by GSA will result in cancellation of the form.

(f) Provide GSA with both an electronic (unless exempted by § 102–194.40) and paper version of the official image of the Standard or Optional form prior to implementation.

(g) Obtain the prescribing agency's approval for exceptions to Standard and Optional forms, including electronic forms or automated formats prior to implementation.

(h) Review annually agency prescribed Standard and Optional forms, including exceptions, for improvement, consolidation, cancellation, or possible automation. The review must include approved electronic versions of the forms.

(i) Coordinate all health-care related Standard and Optional forms through GSA for the approval of the Interagency Committee on Medical Records (ICMR).

(j) Promote the use of electronic forms within the agency by following what the Government Paperwork Elimination Act (GPEA) prescribes and all guidance issued by the Office of Management and Budget and other responsible agencies. This guidance will promote the use of electronic transactions and electronic signatures.

(k) Notify GSA of the replacement of any Standard or Optional form by an automated format or electronic form, and its impact on the need to stock the paper form. GSA's approval is not necessary for this change, but a one-time notification should be made.

(l) Follow the specific instructions in the Standard and Optional Forms Procedural Handbook.

§ 102–194.35 Should I create electronic Standard or Optional forms?

Yes, you should create electronic Standard or Optional forms, especially when forms are used to collect information from the public. GSA will not approve a new or revision to a Standard or Optional form unless an electronic form is being made available. Only forms covered by § 102–194.40 are exempt from this requirement. Furthermore, you should to the extent possible, use electronic form products and services that are based on open standards. However, the use of proprietary products is permitted, provided that the end user is not required to purchase a specific product or subscription to use the electronic Standard or Optional form.

§ 102–194.40 For what Standard or Optional forms should an electronic version not be made available?

All forms should include an electronic version unless it is not practicable to do so. Areas where it may not be practicable include where the form has construction features for specialized use (*e.g.,* labels), to prevent unauthorized use or could otherwise risk a security violation, (*e.g.,* classification cover sheets), or require unusual production costs (*e.g.,* specialized paper or envelopes). Such forms can be made available as an electronic form only if the originating agency approves an exception to do so. (See the Standard and Optional Forms Procedural Handbook for procedures and a list of these forms).

§ 102–194.45 Who should I contact about Standard and Optional forms?

For Standard and Optional forms, you should contact the:

Standard and Optional Forms Management Office General Services Administration (Forms-XR)
1800 F Street, NW.; Room 7126
Washington, DC 20405–0002
(202) 501–0581

PART 102–195—INTERAGENCY REPORTS MANAGEMENT PROGRAM

Sec.

Authority: 40 U.S.C. 486(c).

§ 102–195.5 What is the Interagency Reports Management Program and what is its purpose?

The Interagency Reports Management Program managed by GSA ensures that interagency reports and recordkeeping requirements are necessary, cost-effective, and comply with applicable laws and regulations.

§ 102–195.10 What is an interagency report?

An interagency report is a repetitive reporting requirement imposed by an agency on one or more other agencies.

§ 102–195.15 What must an agency do to implement the Interagency Reports Management Program?

To implement the Interagency Reports Management Program an agency must:

(a) Annually review all interagency reporting requirements imposed on other agencies to assure that they remain necessary.

(b) Consistent with law and regulation, seek information that other agencies have already obtained from the public rather than asking the public to provide the information again.

(c) Every three years beginning November 1, 2001, provide the following information to GSA for each interagency report that will require the responding agencies as a whole to take more than 100 hours complying with it:

(1) Title.

(2) Purpose.

(3) Estimate of the reporting costs for the life of the report or for three years, whichever is sooner.

(4) An estimate of the time you will need to collect this information; *e.g.,* six months or six years.

(5) The name, telephone number, and e-mail address for the point of contact for each interagency report.

(6) Whether the report can be provided electronically, and if not, when such submissions will be allowed.

(d) Provide supporting documentation for cost estimates for review by GSA and responding agencies, if requested.

(e) Notify GSA and responding agencies when an interagency report is no longer needed.

(f) Provide responding agencies an opportunity to comment on any new or proposed revision to an interagency reporting requirement.

(g) Send information asked for in paragraphs (c), (d) and (e) of this section, along with any unresolved comments from responding agencies concerning an interagency reporting requirement in accordance with paragraph (f) of this section to:

General Services Administration
Strategic IT Issues Division (MKB)

1800 F Street, NW.
Washington, DC 20405

§ 102–195.20 Are any interagency reports exempt from this program?

Yes, the following interagency reports are exempt from the Interagency Reports Management Program:

(a) Legislative branch reports;

(b) Office of Management and Budget (OMB) and other Executive Office of the President reports;

(c) Judicial branch reports required by court order or decree; and

(d) Reporting requirements for security of classified information. However, interagency reporting requirements for nonsensitive or unclassified sensitive information are not exempt, even if the information is later given a security classification by the requesting agency.

Dated: September 10, 2001.

Stephen A. Perry,

Administrator of General Services.

[FR Doc. 01–23356 Filed 9–19–01; 8:45 am]

BILLING CODE 6820–34–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1823 and 1852

NASA Safety and Health (Short Form)

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule adopts with changes the interim rule published in the **Federal Register** on April 5, 2001 (65 FR 18051–18053), which amended the NASA FAR Supplement to implement a Safety and Health (Short Form) clause to address safety and occupational health in all NASA contracts above the micro-purchase threshold where the existing Safety and Health clause did not apply, and amended other safety and health clauses to be consistent with the new NASA Safety and Health (Short Form) clause.

EFFECTIVE DATE: September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Yolande Harden, NASA, Office of Procurement, Contract Management Division (Code HK), (202) 358–1279, e-mail: *yharden@mail.hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

NASA has recognized that for it to achieve mission success, it is critically important that NASA contractors also emphasize safety and occupational health. While the existing safety and health clause applies to many high dollar value and high-risk contracts, NASA has many more contracts that it does not apply to that are critical to the agency achieving its mission. The Safety and Health (Short Form) clause was developed to address safety and occupational health in all of its contracts. Contractors must be accountable for the safety and occupational health of their employees, their services, and their products (as applicable). This will help lead to mission success for NASA and its contractors.

One comment from industry was received in response to the interim rule published in the April 5, 2001, **Federal Register**. This comment was a statement of support for NASA's efforts to emphasize safety in the acquisition process. This final rule adopts the interim rule with changes to Alternate I to 1852.223–73, Safety and Health Plan, to clarify the Safety and Health Plan submission requirement under Invitation for Bids (IFB) and adds a prescription at 1823.7001(c) for use of this Alternate.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because this rule focuses attention on safety and occupational health, and does not impose any significant new requirements, which might have an economic impact.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1823 and 1852

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR parts 1823 and 1852 are amended as follows:

1. The authority citation for 48 CFR parts 1823 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1)

PART 1823—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. In section 1823.7001, amend paragraph (c) by adding the following sentence at the end to read as follows:

1823.7001 NASA solicitation provisions and contract clauses.

* * * * *

(c) * * * Insert the provision with its Alternate I, in Invitations for Bid containing the clause at 1852.223–70.

* * * * *

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Revise section 1852.223–73 to read as follows:

1852.223–73 Safety and Health Plan.

As prescribed in 1823.7001(c), insert the following provision:

Safety and Health Plan

September 2001

The offeror shall submit a detailed safety and occupational health plan as part of its proposal (see NPG 8715.3, NASA Safety Manual Appendices). The plan must include a detailed discussion of the policies, procedures, and techniques that will be used to ensure the safety and occupational health of contractor employees and to ensure the safety of all working conditions throughout the performance of the contract. The plan must similarly address safety and occupational health for subcontractor employees for any proposed subcontract whose value is expected to exceed $500,000, including commercial services and services provided in support of a commercial item. Also, when applicable, the plan must address the policies, procedures, and techniques that will be used to ensure the safety and occupational health of: (1) the public, (2) astronauts and pilots, (3) the NASA workforce (including other contractor employees working on NASA contracts), and (4) high-value equipment and property. This plan, as approved by the Contracting Officer, will be included in any resulting contract. (End of provision)

Alternate I

September 2001

As prescribed in 1823.7001(c), delete the first sentence of the basic provision and substitute the following:

The apparent low bidder, upon request by the Contracting Officer, shall submit a detailed safety and occupational health plan (*see* NPG 8715.3, NASA Safety Manual, Appendices). The plan shall be submitted within the time specified by the Contractor Officer. Failure to submit an acceptable plan shall make the bidder ineligible for the award of a contract.

[FR Doc. 01–23421 Filed 9–19–01; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 593

[Docket No. NHTSA–2001–10629]

RIN 2127–A161

List of Nonconforming Vehicles Decided To Be Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document revises the list of vehicles not originally manufactured to conform to the Federal motor vehicle safety standards that NHTSA has decided to be eligible for importation. This list is contained in an appendix to the agency's regulations that prescribe procedures for import eligibility decisions. The revised list includes all vehicles that NHTSA has decided to be eligible for importation since October 1, 2000. NHTSA is required by statute to publish this list annually in the **Federal Register**.

DATES: Effective on September 20, 2001.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made ''on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under 49 U.S.C. 30141(c).'' The Secretary's authority to make these decisions has been delegated to NHTSA. The agency publishes notice of eligibility decisions as they are made.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the **Federal Register**. On October 1, 1996, NHTSA added the list as an appendix to 49 CFR part 593, the regulations that establish procedures for import eligibility decisions (61 FR 51242). As described in the notice, NHTSA took that action to ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public. See 61 FR 51242–43. In the notice, NHTSA expressed its intention to annually revise the list as published in the appendix to include any additional vehicles decided by the agency to be eligible for importation since the list was last published. See 61 FR 51243. The agency stated that issuance of the document announcing these revisions will fulfill the annual publication requirements of 49 U.S.C. 30141(b)(2). *Ibid.*

Rulemaking Analyses and Notices

1. Executive Order 12866 (Federal Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under E.O. 12866. NHTSA has analyzed this rulemaking action and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the revisions resulting from this rulemaking will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

Because this rulemaking does not impose any regulatory requirements, but merely furnishes information by revising the list in the Code of Federal Regulations of vehicles for which import eligibility decisions have been made, it has no economic impact.

3. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws will be affected.

4. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that it will not significantly affect the human environment.

5. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, Pub. L. 96–511, the agency notes that there are no information collection requirements associated with this rulemaking action.

6. Civil Justice Reform

This rule does not have any retroactive effect. It does not repeal or modify any existing Federal regulations. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule does not preempt the states from adopting laws or regulations on the same subject, except that it will preempt a state regulation that is in actual conflict with the Federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

7. Notice and Comment

NHTSA finds that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) because this action does not impose any regulatory requirements, but merely revises the list of vehicles not originally manufactured to conform to the Federal motor vehicle safety standards that NHTSA has decided to be eligible for importation into the United States to include all vehicles for which such decisions have been made since October 1, 2000.

In addition, so that the list of vehicles for which import eligibility decisions have been made may be included in the next edition of 49 CFR parts 400 to 999, which is due for revision on October 1, 2001, good cause exists to dispense with the requirement in 5 U.S.C. 553(d) for the effective date of the rule to be delayed for at least 30 days following its publication.

List of Subjects in 49 CFR Part 593

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, part 593 of title 49 of the Code of Federal

Regulations, *Determinations that a vehicle not originally manufactured to conform to the Federal Motor Vehicle Safety Standards is eligible for importation,* is amended as follows:

PART 593—[AMENDED]

1. The authority citation for part 593 continues to read as follows:

Authority: 49 U.S.C. 322 and 30141(b); delegation of authority at 49 CFR 1.50.

2. Appendix A to part 593 is revised to read as follows:

Appendix A to Part 593—List of Vehicles Determined to be Eligible for Importation

(a) Each vehicle on the following list is preceded by a vehicle eligibility number. The importer of a vehicle admissible under any eligibility decision must enter that number on the HS–7 Declaration Form accompanying entry to indicate that the vehicle is eligible for importation.

(1) ''VSA'' eligibility numbers are assigned to all vehicles that are decided to be eligible for importation on the initiative of the Administrator under § 593.8.

(2) ''VSP'' eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(1), which establishes that a substantially similar U.S.-certified vehicle exists.

(3) ''VCP'' eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(2), which establishes that the vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

(b) Vehicles for which eligibility decisions have been made are listed alphabetically by make, with the exception of Mercedes-Benz vehicles, which appear at the end of the list. Eligible models within each make are listed numerically by ''VSA,'' ''VSP,'' or ''VCP'' number.

(c) All hyphens used in the Model Year column mean ''through'' (for example, ''1973–1989'' means ''1973 through 1989'').

(d) The initials ''MC'' used in the Manufacturer column mean ''motorcycle.''

(e) The initials ''SWB'' used in the Model Type column mean ''Short Wheel Base.''

(f) The initials ''LWB'' used in the Model Type column mean ''Long Wheel Base.''

VEHICLES CERTIFIED BY THEIR ORIGINAL MANUFACTURER AS COMPLYING WITH ALL APPLICABLE CANADIAN MOTOR VEHICLE SAFETY STANDARDS

VSA–80	(a) All passenger cars less than 25 years old that were manufactured before September 1, 1989; (b) All passenger cars manufactured on or after September 1, 1989, and before September 1, 1996, that, as originally manufactured, are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208; (c) All passenger cars manufactured on or after September 1, 1996, and before September 1, 2002, that, as originally manufactured, are equipped with an automatic restraint system that complies with FMVSS No. 208, and that comply with FMVSS No. 214.
VSA–81	(a) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less that are less than 25 years old and that were manufactured before September 1, 1991; (b) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on and after September 1, 1991, and before September 1, 1993 and that, as originally manufactured, comply with FMVSS No. 202 and 208. (c) All multipurpose passenger vehicles, trucks and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on or after September 1, 1993, and before September 1, 1998, and that, as originally manufactured comply with FMVSS No. 202, 208, and 216. (d) All multipurpose passenger vehicles, trucks and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on or after September 1, 1998, and before September 1, 2002, and that, as originally manufactured comply with FMVSS No. 202, 208, 214, and 216.
VSA–82	All multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 4,536 kg (10,000 lb) that are less than 25 years old.
VSA–83	All trailers and motorcycles less than 25 years old.

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET

Manufacturer	VSP	VSA	VCP	Model type		Model year
Acura	51			Legend		1988
Acura	77			Legend		1989
Acura	305			Legend		1990–1992
Alfa Romeo	196			164		1989
Alfa Romeo	76			164		1991
Alfa Romeo	156			164		1994
Alfa Romeo	124			GTV		1985
Alfa Romeo	70			Spider		1987
Audi	93			100		1989
Audi	317			100		1990–1992
Audi	244			100		1993
Audi	160			200 Quattro		1987
Audi	223			80		1988–1989
Audi	352			A4		1996–2000
Audi	332			A6		1998–1999
Audi	337			A8		1997–2000
Audi	238			Avant Quattro		1996
Audi	364			TT		2000–2001
BMW	248			3 Series		1995–1997
BMW	356			3 Series		2000
BMW		66		316		1978–1982
BMW	25			316		1986
BMW		23		318i and 318iA		1981–1989

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
BMW		16		320, 320i, and 320iA		1977–1985
BMW	283			320I		1990–1991
BMW		67		323i		1978–1985
BMW		30		325, 325i, 325iA, and 325E		1985–1989
BMW		24		325e and 325eA		1984–1987
BMW	96			325i		1991
BMW	197			325i		1992–1994
BMW		31		325is and 325isA		1987–1989
BMW	205			325iX		1990
BMW		33		325iX and 325iXA		1988–1989
BMW	194			5 Series		1990–1995
BMW	249			5 Series		1996–1997
BMW	314			5 Series		1998–1999
BMW	345			5 Series		2000
BMW	4			518i		1986
BMW		68		520 and 520i		1978–1983
BMW	9			520iA		1989
BMW		26		524tdA		1985–1986
BMW		69		525 and 525i		1979–1982
BMW	5			525i		1989
BMW		21		528e and 528eA		1982–1988
BMW		20		528i and 528iA		1979–1984
BMW		15		530i and 530iA		1977–1978
BMW		22		533i and 533iA		1983–1984
BMW		25		535i and 535iA		1985–1989
BMW	15			625CSi		1981
BMW	32			628CSi		1980
BMW		17		630CSi 630CSiA		1977
BMW		18		633CSi and 633CSiA		1977–1984
BMW		27		635, 635CSi, and 635CSiA		1979–1989
BMW	299			7 Series		1990–1991
BMW	232			7 Series		1992
BMW	299			7 Series		1993–1994
BMW	313			7 Series		1995–1999
BMW	366			7 Series		1999–2001
BMW		70		728 and 728i		1977–1985
BMW	14			728i		1986
BMW		71		730, 730i, and 730iA		1978–1980
BMW	6			730iA		1988
BMW		72		732i		1980–1984
BMW		19		733i and 733iA		1977–1984
BMW		28		735, 735i, and 735iA		1980–1989
BMW		73		745i		1980–1986
BMW	361			8 Series		1991–1995
BMW		78		All other models except those in the M1 and Z1 series.		1977–1989
BMW		29		L7		1986–1987
BMW		35		M3		1988–1989
BMW		34		M5		1988
BMW		32		M6		1987–1988
BMW	260			Z3		1996–1998
BMW	350			Z8		2000–2001
BMW MC	228			K1		1990–1993
BMW MC	285			K100		1984–1992
BMW MC	303			K1100, K1200		1993–1998
BMW MC	229			K75S		1987–1995
BMW MC	58			R100S		1977
BMW MC	231			R1100		1994–1997
BMW MC	368			R1100		1998–2001
BMW MC	177			R1100RS		1994
BMW MC	359			R1200C		1998–2001
BMW MC	295			R80, R100		1986–1995
Bristol Bus			4	VRT Bus—Double Decker		1977
Bristol Bus			2	VRT Bus—Double Decker		1978–1981
Cadillac	300			DeVille		1994–1999
Chevrolet	150			400SS		1995
Chevrolet	298		Astro Van			1997

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Chevrolet	349		Blazer (plant code of "K" or "2" in the 11th position of the VIN)	1997.		
Chevrolet	369			Cavalier		1997
Chevrolet	365			Corvette		1992
Chevrolet	242			Suburban		1989–1991
Chrysler	344			Daytona		1992
Chrysler	276			LHS		1996
Chrysler	216			Shadow		1989
Chrysler	273			Town and Country		1993
Citroen			1	XM		1990–1992
Dodge	135			Ram		1994–1995
Ducati MC	241			600SS		1992–1996
Ducati MC	220			748 Biposto		1996–1997
Ducati MC	201			900SS		1990–1996
Eagle	323			Vision		1994
Ferrari		76		208, 208 Turbo (all models)		1977–1988
Ferrari		36		308 (all models)		1977–1985
Ferrari		37		328 (except GTS)		1985, 1988–1989
Ferrari		37		328 GTS		1985–1989
Ferrari	86			348 TB		1992
Ferrari	161			348 TS		1992
Ferrari	327			360 Modena		1999–2000
Ferrari	256			456		1995
Ferrari	173			512 TR		1993
Ferrari	292			550 Marinello		1997–1999
Ferrari	259			F355		1995
Ferrari	355			F355		1996–1998
Ferrari	226			F50		1995
Ferrari		38		GTO		1985
Ferrari		74		Mondial (all models)		1980–1989
Ferrari		39		Testarossa		1987–1989
Ford	265			Bronco		1995–1996
Ford	322			Escort (Nicaragua)		1996
Ford			9	Escort RS		1994–1995
Ford	268			Explorer		1991–1998
Ford	367			Mustang		1993
Ford	250			Windstar		1995–1998
Freightliner	179			FLD12064ST		1991–1996
Freightliner	178			FTLD112064SD		1991–1996
GMC	134			Suburban		1992–1994
Harley Davidson	202			FX, FL, XL series		1977–1997
Harley Davidson	253			FX, FL, XL series		1998
Harley Davidson	281			FX, FL, XL series		1999
Harley Davidson	321			FX, FL, XL series		2000
Harley Davidson	362			FX, FL, XL series		2001
Hobson			8	Horse Trailer		1985
Honda	280			Accord		1991
Honda	319			Accord		1992–1999
Honda	128			Civic DX		1989
Honda	191			Prelude		1989
Honda	309			Prelude		1994–1997
Honda MC	106			CB1000F		1988
Honda MC	348			CMX250C		1978–1987
Honda MC	174			CP450SC		1986
Honda MC	358			RVF 400		1994–2000
Honda MC	290			VF750		1994–1998
Honda MC	358			VFR 400		1994–2000
Honda MC	34			VFR750		1990
Honda MC	315			VFR750		1991–1997
Honda MC	315			VFR800		1998–1999
Honda MC	294			VT600		1991–1998
Hyundai	269			Elantra		1992–1995
Jaguar	78			Sovereign		1993
Jaguar		41		XJ6		1977–1986
Jaguar	47			XJ6		1987
Jaguar	215			XJ6 Sovereign		1988
Jaguar		40		XJS		1980–1987

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Jaguar	175			XJS		1991
Jaguar	129			XJS		1992
Jaguar	195			XJS		1994–1996
Jaguar	336			XJS, XJ6		1988–1990
Jaguar	330			XK–8		1998
Jaguar Daimler	12			Limousine		1985
Jeep	211			Cherokee		1991
Jeep	164			Cherokee		1992
Jeep	254			Cherokee		1993
Jeep	180			Cherokee		1995
Jeep	224			CJ–7		1979
Jeep	217			Wrangler		1993
Jeep	255			Wrangler		1995
Jeep	341			Wrangler		1998
Kawasaki MC	233			EL250		1992–1994
Kawasaki MC	190			KZ550B		1982
Kawasaki MC	182			ZX1000–B1		1988
Kawasaki MC	222			ZX400		1987–1997
Kawasaki MC	312			ZX6, ZX7, ZX9, ZX10, ZX11		1987–1999
Kawasaki MC	288			ZX600		1985–1998
Kawasaki MC	247			ZZR1100		1993–1998
Ken-Mex	187			T800		1990–1996
Kenworth	115			T800		1992
KTM MC	363			Duke II		1995–2000
Land Rover	212			Defender 110		1993
Land Rover	338			Discovery		1994–1998
Lexus	293			GS300		1993–1996
Lexus	307			RX300		1998–1999
Lexus	225			SC300,SC400		1991–1996
Lincoln	144			Mark VII		1992
Magni MC	264			Australia, Sfida		1996–1998
Maserati	155			Bi-Turbo		1985
Mazda	184			MX–5 Miata		1990–1993
Mazda	199			RX–7		1986
Mazda	42			RX–7		1978–1981
Mazda	279			RX–7		1987–1995
Mazda	351			Xedos 9		1995–2000
Mercedes Benz		54		190	201.022	1984
Mercedes Benz		54		190 D	201.126	1984–1989
Mercedes Benz		54		190 D (2.2)	201.122	1984–1989
Mercedes Benz		54		190 E	201.028	1986–1989
Mercedes Benz	22			190 E	201.024	1990
Mercedes Benz	45			190 E	201.024	1991
Mercedes Benz	71			190 E	201.028	1992
Mercedes Benz	126			190 E	201.018	1992
Mercedes Benz		54		190 E (2.3)	201.024	1983–1989
Mercedes Benz		54		190 E (2.6)	201.029	1986–1989
Mercedes Benz		54		190 E 2.3 16	201.034	1984–1989
Mercedes Benz		52		200	123.020	1977–1980
Mercedes Benz		52		200	123.220	1979–1985
Mercedes Benz		55		200	124.020	1985
Mercedes Benz		52		200 D	123.120	1980–1982
Mercedes Benz	17			200 D	124.120	1986
Mercedes Benz	11			200 E	124.021	1989
Mercedes Benz	109			200 E	124.012	1991
Mercedes Benz	75			200 E	124.019	1993
Mercedes Benz	3			200 TE	124.081	1989
Mercedes Benz	168			220 E		1993
Mercedes Benz	167			220 TE Station Wagon		1993–1996
Mercedes Benz		52		230	123.023	1977–1985
Mercedes Benz		52		230 C	123.043	1978–1980
Mercedes Benz		52		230 CE	123.243	1980–1984
Mercedes Benz	84			230 CE	124.043	1991
Mercedes Benz	203			230 CE		1992
Mercedes Benz		52		230 E	123.223	1977–1985
Mercedes Benz		55		230 E	124.023	1985–1987
Mercedes Benz	1			230 E	124.023	1988
Mercedes Benz	20			230 E	124.023	1989
Mercedes Benz	19			230 E	124.023	1990
Mercedes Benz	74			230 E	124.023	1991
Mercedes Benz	127			230 E	124.023	1993
Mercedes Benz		52		230 T	123.083	1977–1985

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Mercedes Benz		52		230 TE	123.283	1977–1985
Mercedes Benz		55		230 TE	124.083	1985
Mercedes Benz	2			230 TE	124.083	1989
Mercedes Benz		52		240 D	123.123	1977–1985
Mercedes Benz		52		240 TD	123.183	1977–1985
Mercedes Benz		52		250	123.026	1977–1985
Mercedes Benz	172			250 D		1992
Mercedes Benz	245			250 E		1990–1993
Mercedes Benz		55		260 E	124.026	1985–1989
Mercedes Benz	105			260 E	124.026	1992
Mercedes Benz	18			260 SE	126.020	1986
Mercedes Benz	28			260 SE	126.020	1989
Mercedes Benz		52		280	123.030	1977–1985
Mercedes Benz		52		280 C	123.050	1977–1980
Mercedes Benz		52		280 CE	123.053	1977–1985
Mercedes Benz		52		280 E	123.033	1977–1985
Mercedes Benz	166			280 E		1993
Mercedes Benz		51		280 S	116.020	1977–1980
Mercedes Benz		53		280 S	126.021	1980–1983
Mercedes Benz		44		280 SC	107.022	1977–1981
Mercedes Benz		51		280 SE	116.024	1977–1988
Mercedes Benz		53		280 SE	126.022	1980–1985
Mercedes Benz		51		280 SEL	116.025	1977–1980
Mercedes Benz		53		280 SEL	126.023	1980–1985
Mercedes Benz		44		280 SL	107.042	1977–1985
Mercedes Benz		52		280 TE	123.093	1977–1985
Mercedes Benz		52		300 CD	123.150	1978–1985
Mercedes Benz		55		300 CE	124.050	1988–1989
Mercedes Benz	64			300 CE	124.051	1990
Mercedes Benz	83			300 CE	124.051	1991
Mercedes Benz	117			300 CE	124.050	1992
Mercedes Benz		52		300 D	123.133	1977–1985
Mercedes Benz		52		300 D	123.130	1977–1985
Mercedes Benz		55		300 D	124.130	1985–1986
Mercedes Benz		55		300 D Turbo	124.133	1985–1989
Mercedes Benz		55		300 E	124.030	1985–1989
Mercedes Benz	114			300 E	124.031	1992
Mercedes Benz	192			300 E Matic		1990–1993
Mercedes Benz		53		300 SD	126.120	1981–1989
Mercedes Benz		53		300 SE	126.024	1985–1989
Mercedes Benz	68			300 SE	126.024	1990
Mercedes Benz		53		300 SEL	126.025	1986–1989
Mercedes Benz	21			300 SEL	126.025	1990
Mercedes Benz		44		300 SL	107.041	1986–1988
Mercedes Benz	7			300 SL	107.041	1989
Mercedes Benz	54			300 SL	129.006	1992
Mercedes Benz		52		300 TD	123.193	1977–1985
Mercedes Benz		55		300 TD Turbo	124.193	1986–1989
Mercedes Benz		55		300 TE	124.090	1986–1989
Mercedes Benz	40			300 TE	124.090	1990
Mercedes Benz	193			300 TE		1992
Mercedes Benz	142			320 SL		1992
Mercedes Benz	310			320 CE		1993
Mercedes Benz		44		350 SC	107.023	1977–1979
Mercedes Benz		51		350 SE	116.028	1977–1980
Mercedes Benz		51		350 SEL	116.029	1977–1980
Mercedes Benz		44		350 SL	107.043	1977–1978
Mercedes Benz		44		380 SC	107.025	1981–1989
Mercedes Benz		53		380 SE	126.032	1979–1989
Mercedes Benz		53		380 SE	126.043	1982–1989
Mercedes Benz		53		380 SEL	126.033	1980–1989
Mercedes Benz		44		380 SL	107.045	1980–1989
Mercedes Benz	296			400 SE		1992–1994
Mercedes Benz	169			420 E		1993
Mercedes Benz		53		420 SE	126.034	1985–1989
Mercedes Benz	230			420 SE		1990–1991
Mercedes Benz	209			420 SEC		1990
Mercedes Benz		53		420 SEL	126.035	1986–1989
Mercedes Benz	48			420 SEL	126.035	1990
Mercedes Benz		44		420 SL	107.047	1986
Mercedes Benz		44		450 SC	107.024	1977–1989
Mercedes Benz		51		450 SE	116.032	1977–1980

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Mercedes Benz		51		450 SEL	116.033	1977–1988
Mercedes Benz		51		450 SEL(6.9)	116.036	1977–1988
Mercedes Benz		44		450 SL	107.044	1977–1989
Mercedes Benz	56			500 E	124.036	1991
Mercedes Benz		44		500 SC	107.026	1978–1981
Mercedes Benz		53		500 SE	126.036	1980–1986
Mercedes Benz	35			500 SE	126.036	1988
Mercedes Benz	154			500 SE		1990
Mercedes Benz	26			500 SE	140.050	1991
Mercedes Benz		53		500 SEC	126.044	1981–1989
Mercedes Benz	66			500 SEC	126.044	1990
Mercedes Benz		53		500 SEL	126.037	1980–1989
Mercedes Benz	23			500 SEL	129.066	1989
Mercedes Benz	153			500 SEL		1990
Mercedes Benz	63			500 SEL	126.037	1991
Mercedes Benz		44		500 SL	107.046	1980–1989
Mercedes Benz	33			500 SL	129.066	1991
Mercedes Benz	60			500 SL	129.006	1992
Mercedes Benz		53		560 SEC	126.045	1986–1989
Mercedes Benz	141			560 SEC	126.045	1990
Mercedes Benz	333			560 SEC		1991
Mercedes Benz		53		560 SEL	126.039	1986–1989
Mercedes Benz	89			560 SEL	126.039	1990
Mercedes Benz		44		560 SL	107.048	1986–1989
Mercedes Benz		43		600	100.012	1977–1981
Mercedes Benz		43		600 Landaulet	100.015	1977–1981
Mercedes Benz		43		600 Long 4dr	100.014	1977–1981
Mercedes Benz		43		600 Long 6dr	100.016	1977–1981
Mercedes Benz	185			600 SEC Coupe		1993
Mercedes Benz	121			600 SL	129.076	1992
Mercedes Benz		77		All other models except Model ID 114 and 115 with sales designations ''long,'' ''station wagon,'' or ''ambulance.''.		1977–1989
Mercedes Benz	331			C Class		1994–1999
Mercedes Benz	277			CL500		1998
Mercedes Benz	370			CL500		1999–2001
Mercedes Benz	370			CL600		1999–2001
Mercedes Benz	357			CLK320		1998
Mercedes Benz	354			E Series		1991–1995
Mercedes Benz	207			E200		1994
Mercedes Benz	278			E200		1995–1998
Mercedes Benz	168			E220		1994–1996
Mercedes Benz	245			E250		1994–1995
Mercedes Benz	166			E280		1994–1996
Mercedes Benz	240			E320		1994–1998
Mercedes Benz	318			E320 Station Wagon		1994–1999
Mercedes Benz	169			E420		1994–1996
Mercedes Benz	163			E500		1994
Mercedes Benz	304			E500		1995–1997
Mercedes Benz			18	G-Wagon		1999–2000
Mercedes Benz			5	G-Wagon 300	463.228	1990–1992
Mercedes Benz			3	G-Wagon 300	463.228	1993
Mercedes Benz			5	G-Wagon 300	463.228	1994
Mercedes Benz			6	G-Wagon 320		1995
Mercedes Benz			11	G-Wagon 463		1996
Mercedes Benz			15	G-Wagon 463		1997
Mercedes Benz			16	G-Wagon 463		1998
Mercedes Benz			13	G-Wagon 463 LWB V–8		1992–1996
Mercedes Benz			14	G-Wagon 463 SWB		1990–1996
Mercedes Benz	342			S Class		1995–1998
Mercedes Benz	325			S Class		1999
Mercedes Benz	85			S280	140.028	1994
Mercedes Benz	236			S320		1994
Mercedes Benz	267			S420		1994
Mercedes Benz	235			S500		1994
Mercedes Benz	371			S500		2000–2001
Mercedes Benz	297			S600		1995–1999
Mercedes Benz	371			S600		2000–2001
Mercedes Benz	185			S600 Coupe		1994
Mercedes Benz	214			S600L		1994

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Mercedes Benz	343			SE Class		1992–1994
Mercedes Benz	343			SEL Class		1992–1994
Mercedes Benz	329			SL Class		1993–1996
Mercedes Benz	257			SLK		1997–1998
Mitsubishi	13			Galant SUP		1989
Mitsubishi	8			Galant VX		1988
Mitsubishi	170			Pajero		1984
Moto Guzzi MC	118			Daytona		1993
Moto Guzzi MC	264			Daytona RS		1996–1998
Nissan	162			240SX		1988
Nissan	198			300ZX		1984
Nissan		75		Fairlady and Fairlady Z		1977–1979
Nissan			17	GTS, GTR		1990–1999
Nissan	138			Maxima		1989
Nissan	316			Pathfinder		1987–1995
Nissan	139			Stanza		1987
Nissan		75		Z and 280Z		1977–1981
Peugeot		65		405		1989
Plymouth	353			Voyager		1996
Pontiac	189			Transport MPV		1993
Porsche	346			911		1997–2000
Porsche	29			911 C4		1990
Porsche		56		911 Cabriolet		1984–1989
Porsche		56		911 Carrera		1977–1989
Porsche	52			911 Carrera		1992
Porsche	165			911 Carrera		1993
Porsche	103			911 Carrera		1994
Porsche	165			911 Carrera		1995–1996
Porsche		56		911 Coupe		1977–1989
Porsche		56		911 Targa		1977–1989
Porsche		56		911 Turbo		1977–1989
Porsche	125			911 Turbo		1992
Porsche	347			911 Turbo		2001
Porsche		59		924 Coupe		1977–1989
Porsche		59		924 S		1987–1989
Porsche		59		924 Turbo Coupe		1979–1989
Porsche	266			928		1991–1996
Porsche	272			928		1997–1998
Porsche		60		928 Coupe		1977–1989
Porsche		60		928 GT		1979–1989
Porsche		60		928 S Coupe		1983–1989
Porsche		60		928 S4		1979–1989
Porsche	210			928 S4		1990
Porsche	97			944		1990
Porsche		61		944 Coupe		1982–1989
Porsche		61		944 S Coupe		1987–1989
Porsche	152			944 S2 2 door Hatchback		1990
Porsche		61		944 Turbo Coupe		1985–1989
Porsche	116			946		1994
Porsche		79		All models except Model 959		1977–1989
Porsche	261			Boxster		1997
Rolls Royce	340			Bentley		1987–1989
Rolls Royce	186			Bentley Brooklands		1993
Rolls Royce	258			Bentley Continental R		1990–1993
Rolls Royce	53			Bentley Turbo		1986
Rolls Royce	291			Bentley Turbo R		1992–1993
Rolls Royce	243			Bentley Turbo R		1995
Rolls Royce	122			Camargue		1984–1985
Rolls Royce	339			Corniche		1977–1985
Rolls Royce		62		Silver Shadow		1977–1979
Rolls Royce	188			Silver Spur		1984
Saab	158			900		1983
Saab	270			900 S		1987–1989
Saab	219			900 SE		1990–1994
Saab	219			900 SE		1996–1997
Saab	213			900 SE		1995
Saab	59			9000		1988
Saab	334			9000		1994
Sprite			12	Musketeer Trailer		1980
Suzuki MC	111			GS 850		1985
Suzuki MC	287			GSF 750		1996–1998
Suzuki MC	208			GSX 750		1983

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Suzuki MC	275			GSXR 750		1986–1998
Suzuki MC	227			GSXR1100		1986–1997
Toyota	308			Avalon		1995–1998
Toyota		63		Camry		1987–1988
Toyota	39			Camry		1989
Toyota		64		Celica		1987–1988
Toyota		65		Corolla		1987–1988
Toyota	320			Land Cruiser		1978–1980
Toyota	252			Land Cruiser		1981–1988
Toyota	101			Land Cruiser		1989
Toyota	218			Land Cruiser		1990–1996
Toyota	324			MR2		1990–1991
Toyota	326			Previa		1991–1992
Toyota	302			Previa		1993–1997
Toyota	328			RAV4		1996
Toyota	200			Van		1987–1988
Triumph MC	311			Thunderbird		1995–1999
Volkswagen	237			Beetle Convertible		1977–1979
Volkswagen	237			Beetle Sedan		1977
Volkswagen	306			Eurovan		1993–1994
Volkswagen	159			Golf		1987
Volkswagen	80			Golf		1988
Volkswagen	92			Golf		1993
Volkswagen	73			Golf Rally		1988
Volkswagen	149			GTI (Canadian)		1991
Volkswagen	274			Jetta		1994–1996
Volkswagen	148			Passat 4 door Sedan		1992
Volkswagen		42		Scirocco		1986
Volkswagen	284			Transporter		1988–1989
Volkswagen	251			Transporter		1990
Volvo	43			262C		1981
Volvo	87			740 Sedan		1988
Volvo	286			850 Turbo		1995–1998
Volvo	95			940 GL		1993
Volvo	132			945 GL		1994
Volvo	176			960 Sedan & Wagon		1994
Volvo	335			S70		1998–2000
Yamaha MC	113			FJ1200		1991
Yamaha MC	360			R1		2000
Yamaha MC	171			RD–350		1983
Yamaha MC	301			Virago		1990–1998

Issued on: September 14, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 001226367–0367–01; I.D. 090701C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Pacific Whiting Allocation

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

ACTION: Reapportionment of surplus Pacific whiting allocation; announcement of the reopening dates for the primary season for the shore-based sector; request for comments.

SUMMARY: NMFS has determined that the Indian tribal fishery will be unable to harvest 10,000 metric tons (mt) of their 2001 Pacific whiting (whiting) allocation. NMFS therefore, announces the reapportionment of surplus whiting from the tribal allocation to the catcher/processor, mothership, and shore-based sectors. This action is intended to provide for the full harvest of whiting available to the 2001 fishery.

DATES: Effective noon, local time (l.t.) September 17, 2001, unless modified, superseded, or rescinded, until the effective date of the 2002 annual specifications and management measures, which will be published in the **Federal Register**. Comments will be accepted through October 5, 2001.

ADDRESSES: Submit comments to Donna Acting Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Becky Renko, 206–526–6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On January 11, 2001 (66 FR 2338), the levels of allowable biological catch (ABC), the optimum yield (OY) the tribal allocation, and the commercial OY (the OY minus the tribal allocation)

for U.S. harvests of whiting were announced in the **Federal Register**. For 2001 the whiting ABC and OY are 190,400 mt (mt), the tribal whiting allocation is 27,500 mt, and the commercial OY is 162,900 mt.

Regulations at 50 CFR 660.323(a)(4) divide the commercial OY into separate allocations for the non-tribal catcher/processor, mothership, and shore-based sectors of the whiting fishery. The catcher/processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting. The shoreside sector is composed of vessels that harvest whiting for delivery to shoreside processors. Each sector receives a portion of the commercial OY, with the catcher/processors getting 34 percent (55,386 mt), motherships getting 24 percent (39,096 mt), and the shore-based sector getting 42 percent (68,418 mt).

On August 31, 2001, NMFS received notification from the tribal fishery participants indicating that 10,000 mts of the tribal allocation was not expected to be harvested before the end of the fishing year. As a result, NMFS announces the reapportionment of the 10,000 mt surplus whiting from the tribal allocation to the catcher/processor, mothership, and shore-based sectors. Regulations at 50 CFR 660.323 (a)(3)(iv) provide for the reapportionment of allocation that the Regional Administrator determines will not be used by the end of the fishing year. Such reapportionments are to be disbursed in the same proportion as each sector's allotted portion of the commercial OY. Therefore, in addition to the allocations announced on January 11, 2001, the catcher/processors get an additional 3,400 mt(34 percent), the motherships get an additional 2,400 mt (24 percent), and the shore-based sector get an additional 4,200 mt (42 percent). The total allocation for 2001 by sector is: catcher/processor 58,786 mt, motherships 41,496 mt, and shore-based 72,618 mt.

NMFS announced the end of the 2001 primary season for the shore-based Pacific whiting fishery at noon local time (l.t.) August 21, 2001, because the allocation was projected to be reached at that time. To provide the shore-based participants access to the reapportioned whiting, this document announces the resumption of the primary season for the shore-based whiting fishery at noon l.t., Monday, September 17, 2001.

NMFS Action

This action announces the reapportionment of 10,000 mt of surplus whiting from the Indian tribal fishery to the catcher/processor, mothership, and shore-based sectors of the non-tribal whiting fishery. The revised tribal allocation for 2001 will be 17,500 mt. The commercial allocations for 2001 by sector are: catcher/processor 58,786 mt, motherships 41,496 mt, and shore-based 72,618 mt.

Effective noon l.t., Monday, September 17, 2001, the 2001 primary season for the shore-based sector of the whiting fishery resumes. If a vessel fishes shoreward of the 100 fm (183 m) contour in the Eureka area (43° – 40°30′ N. lat.) at any time during a fishing trip, a 10,000-lb (4,536 kg) trip limit applies, as announced in the annual management measures at paragraph IV, B (3)(c)(ii).

Classification

These actions are authorized by the FMP and regulations at 50 CFR part 660 subpart G, which governs the harvest of groundfish in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. The determination to take these actions is based on the most recent fishery data and recent notification from the tribal representatives. Because of the need for immediate action, NMFS has determined that providing an opportunity for prior notice and comment would be impractical and contrary to public interest. Delay of this action could push the whiting season into inclement autumn weather. Because the shore-based and mothership sectors are composed of smaller catcher vessels, the agency believes that the risk of pushing the season into inclement weather constitutes good cause to waive the 30-day delay in effectiveness. In addition, the shore-based processors need an immediate reallocation if they are to keep their workers employed. These actions are taken under the authority of 50 CFR 660.323(a)(2), and are exempt from review under Executive Order 12866.

The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(A).

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

Dated: September 14, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23471 Filed 9–17–01; 2:29 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1168–06; I.D. 011101B]

RIN 0648–A082

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures and 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries off Alaska; Correction

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

ACTION: Emergency interim rule; correction.

SUMMARY: This document corrects the July 17, 2001, emergency interim rule and its August 22, 2001, correction by correcting Steller sea lion protection areas for the Pacific cod directed fishery, to clarify closure areas to Tables 22, 23, and 24 to part 679 and by correcting the corresponding regulatory text to be consistent with the changes to the tables.

DATES: Effective September 18, 2001, through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, NMFS, 907–586–7228 or e-mail at *melanie.brown@noaa.gov.*

SUPPLEMENTARY INFORMATION: The emergency interim rule published July 17, 2001 (66 FR 37167), and corrected August 22, 2001 (66 FR 44073), implements Steller sea lion protection measures and announces final 2001 harvest specifications for the groundfish fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska. As published and corrected, the final regulations contain errors.

In Table 22, in column 8, the column heading was incomplete in the August 22, 2001, **Federal Register** correction. This correction includes the additional language regarding vessels less than 60 ft (18.3 m). Footnote 7 to Table 22 is corrected to clarify the no fishing zones.

Tables 22 and 23 have footnotes added to Sutwik Island and Kodiak/

Cape Ugat sites to clarify the extent of the no pollock and Pacific cod trawl fishing zones around these sites. The 20-nautical miles (nm) arcs were incorrectly extended into the Shelikof foraging area. The North Pacific Fishery Management Council (Council) and NMFS did not intend the closures around these areas to enter the open area of the Shelikof foraging area.

Consistent with the Council intent and NMFS' action, the closure is within 10 nautical miles around rookeries in the Aleutian Islands to Pacific cod trawling, except for the 20-nm closures around the Agligadak and Buldir rookeries for all Pacific cod fishing. All Pacific cod non-trawl vessels may fish outside 3 nautical miles in critical habitat around remaining rookeries and haulouts in the Aleutian Islands. Table 23 in the emergency interim rule, which erroneously shows all Pacific cod fishing closed to either 10 nautical miles or 20 nautical miles around Adak Island, Kasatochi Island, Seguam Island/Saddleridge Point, and Yunaska Island rookeries, is corrected to show all these rookeries with 10-nm Pacific cod trawling closures. Because the closures at these rookeries apply only to trawling, the exemptions (designated by a ''Y'') shown in column 10 of Table 23 for vessels less than 60 ft (18.3 m) using non-trawl gear are removed.

In addition, column 9 of Table 23 is removed, and columns 10 and 11 are redesignated as columns 9 and 10, respectively, to eliminate redundant closure designations. All sites listed with closures in column 9 of the August 22, 2001, Table 23 are rookeries. All rookeries that are listed in Table 21 of the regulatory text have no groundfish fishing zones, which make fishery specific closures from 0 nautical miles to 3 nautical miles unnecessary.

Footnotes 5 and 8 to Table 23 of the regulations are revised, respectively, to correspond with the corrections. Regulatory text in 50 CFR 679.22 (a)(12), (a)(13), and (b)(7)(ii)(B) is also corrected to reflect the corrections made to Table 23. Footnote 7 to Table 23 is corrected to clarify the no fishing zone.

The footnotes to Table 24 of the regulatory text are also corrected by designating § 679.22(a)(12) to correspond with the corrections to Table 23. Footnote 4 to Table 24 is corrected to clarify the no fishing zone.

Correction

Accordingly, the emergency interim rule published on July 17, 2001 (66 FR 37167, FR Doc. 01-17850), and its correction published August 22, 2001 (66 FR 44073, FR Doc. 01-21205), are corrected as follows.

§ 679.22 [Corrected]

1. In the emergency interim rule published July 17, 2001, 66 FR 37167, the following corrections are made to § 679.22:

a. On page 37180, in the second column, amendatory instruction 5, in the fourth line, ''(a)(12)(iv) through (viii)'' is corrected to read ''(a)(12)(iv) through (vii).''

b. On page 37180, column 3, and on page 37181, column 1, paragraph (a)(12)(vii) is removed;

c. On page 37181, column 1, paragraph (a)(12)(viii) is correctly redesignated as paragraph (a)(12)(vii);

d. On page 37181, column 1, paragraph (a)(13)(iii)(C) is corrected to read as follows:

(a) * * *

(13) * * *

(iii) * * *

''(C) All pot vessels are exempt from Pacific cod no fishing zones for selected sites. These sites are listed in Table 23 to this part and identifiable by a ''Bering Sea'' in column 2 and by a ''Y'' in column 10.''

* * * * *

e. On page 37181, column 3, paragraph (b)(7)(ii)(B) is corrected to read as follows:

(b) * * *

(7) * * *

(ii) * * *

(B) All vessels less than 60 ft (18.3 m) LOA using non-trawl gear are exempt from the fishing prohibitions of paragraph (b)(3)(i)(B) of this section and from Pacific cod no fishing zones for selected sites. These sites are listed in Table 23 of this part and identifiable by a ''Gulf of Alaska'' in column 2 and a ''Y'' in column 9.

* * * * *

Tables 22, 23, and 24 to 50 CFR part 679 [Corrected]

2. In the correction of the emergency interim rule published August 22, 2001 (66 FR 44073, FR Doc. 01-21205), Tables 22, 23, and 24 to 50 CFR part 679, beginning on pages 44079, 44081, and 44084, respectively, are correctly revised to read as follows:

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Table 22 to 50 CFR Part 679 Steller Sea Lion Protection Areas for Pollock Fisheries

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to [1]		Pollock no fishing zone[2,7] (nm)	Vessels < 60 Ft (18.3m) using non-trawl gear exempt from pollock fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)		
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20	Y
Chuginadak	Gulf of Alaska	52 46.70 N	169 41.90 W			20	
Samalga	Gulf of Alaska	52 46.00 N	169 15.00 W			20	
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			20	
Polivnoi Rock	Gulf of Alaska	53 15.96 N	167 57.99 W			20	
Emerald I.	Gulf of Alaska	53 17.50 N	167 51.50 W			20	
Unalaska/Cape Izigan	Gulf of Alaska	53 13.64 N	167 39.37 W			20	
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			10	Y
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10	Y
Unalaska I./Cape Sedanka	Gulf of Alaska	53 50.50 N	166 05.00 W			20	
Old Man Rocks	Gulf of Alaska	53 52.20 N	166 04.90 W			20	
Akutan I./Cape Morgan	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20	
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10	Y
Rootok	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20	
Tanginak I.	Gulf of Alaska	54 12.00 N	165 19.40 W			20	
Tigalda/Rocks NE	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20	
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			10	Y
Aiktak	Gulf of Alaska	54 10.99 N	164 51.15 W			20	
Ugamak I.	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20	
Round (GOA)	Gulf of Alaska	54 12.05 N	164 46.60 W			20	
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			10	Y
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10	Y
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W			10	Y
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W			10	Y
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W			10	Y
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			10	Y

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to[1]		Pollock no fishing zone[2,7] (nm)	Vessels < 60 Ft (18.3m) using non-trawl gear exempt from pollock fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)		
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			10	Y
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			10	Y
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W			10	Y
Olga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10	Y
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W			10	Y
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W			10	Y
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	10	Y
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			10	Y
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	10	Y
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			10	Y
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			10	Y
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			10	Y
Mitrofania	Gulf of Alaska	55 50.20 N	158 41.90 W			10	Y
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			20	
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			20	
Sutwik I.[8]	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20	
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20	
Nagai Rocks	Gulf of Alaska	55 49.80 N	155 47.50 W			20	
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20	
Kodiak/Cape Ugat[9]	Gulf of Alaska	57 52.41 N	153 50.97 W			20	Y
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			20	Y
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			20	Y
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			20	Y
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			20	Y
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			20	Y
Long I.[4]	Gulf of Alaska	57 46.82 N	152 12.90 W			20	Y
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			20	Y
Kodiak/Cape Chiniak[4,6]	Gulf of Alaska	57 37.90 N	152 08.25 W			20	Y
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			20	
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			20	Y
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	20	
Nagahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			20	Y
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			20	Y
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			20	Y
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20	
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			20	Y
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			20	Y
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			20	Y
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	20	Y

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to [1]		Pollock no fishing zone[2,7] (nm)	Vessels < 60 Ft (18.3m) using non-trawl gear exempt from pollock fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)		
Point Elrington[5]	Gulf of Alaska	59 56.00 N	148 15.20 W			20	
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			20	
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			20	
Cape Hinchinbrook	Gulf of Alaska	60 14.00 N	146 38.50 W			20	
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			20	
Hook Point	Gulf of Alaska	60 20.00 N	146 15.60 W			20	
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			20	

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base

[2] See 679.22(a)(11)(iv) and (b)(3)(iv).

[3] See 679.22(a)(13)(iv) and (b)(7)(iii).

[4] Pollock fishing closure to 10 nm from October 1 through December 31.

[5] Pollock fishing closure extends 20 nm into federal waters outside of Prince William Sound only.

[6] The pollock no fishing area extends in an arc from 3nm to 10 or 20 nm to a line connecting the point 57°31'3" N lat./152°17'48" W long. with the point 57°24'36" N lat./151° 40'29" W long

[7] No fishing zones are the waters between 3 nm and the nm specified in column 7 around each site.

[8] The 20 nm pollock trawl closure around Sutwik haulout is established only for that portion of the area south of a line connecting Cape Kumlik (56°38' N/157°26' W) and the southwestern tip of Tugidak Island (56°24' N/154°41' W).

[9] The 20 nm pollock trawl closures around Kodiak/Cape Ugat and Shakun Rock haulouts are established only for that portion east of 154° 0' 0" W long. and for Shakun Rock, north of 58°23' 05" N lat.

Table 23 to 50 CFR Part 679 Steller Sea Lion Protection Areas for Pacific Cod Fisheries

Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		All P. Cod no fishing zone[3, 7]	Trawl Gear P. Cod no fishing Zone[4, 7]	Vessels < 60 ft. (18.3m) using non trawl gear exempt from column 7 P. cod fishing closures[5]	All pot vessels exempt from P. cod fishing closures[6]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)		
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20		Y	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20		Y	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20		Y	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10		Y	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20		Y	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20		Y	Y
Attu I./Cape Wrangell	Aleutian Island	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E		20		
Agattu I./Gillon Pt	Aleutian Island	52 24.13 N	173 21.31 E				20		
Attu I./Chirikof Pt.	Aleutian Island	52 49.75 N	173 26.00 E				20		
Agattu I./Cape Sabak	Aleutian Island	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E		20		
Alaid I.	Aleutian Island	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E		20		
Shemya I.	Aleutian Island	52 44.00 N	174 08.70 E				20		
Buldir I.	Aleutian Island	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	20		Y	
Kiska I./Cape St. Stephen	Aleutian Island	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E		20		
Kiska I./Sobaka & Vega	Aleutian Island	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E		20		
Kiska I./Lief Cove	Aleutian Island	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E		20		
Kiska I./Sirius Pt.	Aleutian Island	52 08.50 N	177 36.50 E				20		
Tanadak I. (Kiska)	Aleutian Island	51 56.80 N	177 46.80 E				20		
Segula I.	Aleutian Island	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E		20		
Ayugadak Point	Aleutian Island	51 45.36 N	178 24.30 E				20		
Rat I./Krysi Pt.	Aleutian Island	51 49.98 N	178 12.35 E				20		
Little Sitkin I.	Aleutian Island	51 59.30 N	178 29.80 E				20		
Amchitka I./Column Rocks	Aleutian Island	51 32.32 N	178 49.28 E				20		
Amchitka I./East Cape	Aleutian Island	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E		20		
Amchitka I./Cape Ivakin	Aleutian Island	51 24.46 N	179 24.21 E				20		
Semisopochnoi/Petrel Pt.	Aleutian Island	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E		20		
Semisopochnoi I./Pochnoi Pt.	Aleutian Island	51 57.30 N	179 46.00 E				20		
Amatignak I./Nitrof Pt.	Aleutian Island	51 13.00 N	179 07.80 W				20		
Unalga & Dinkum Rocks	Aleutian Island	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W		20		
Ulak I./Hasgox Pt.	Aleutian Island	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W		20		
Kavalga I.	Aleutian Island	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W		20		
Tag I.	Aleutian Island	51 33.50 N	178 34.50 W				20		
Ugidak I.	Aleutian Island	51 34.95 N	178 30.45 W				20		
Gramp Rock[9]	Aleutian Island	51 28.87 N	178 20.58 W				20		
Adak I.	Aleutian Island	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W		10		
Kasatochi I.	Aleutian Island	52 11.11 N	175 31.00 W				10		
Agligadak I.	Aleutian Island	52 06.09 N	172 54.23 W			20		Y	
Seguam I./Saddleridge Pt.	Aleutian Island	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W		10		
Yunaska I.	Aleutian Island	52 41.40 N	170 36.35 W				10		
Chuginadak	Gulf of Alaska	52 46.70 N	169 41.90 W			20			
Samalga	Gulf of Alaska	52 46.00 N	169 15.00 W			20			
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			20			

Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		All P. Cod no fishing zone[3,7]	Trawl Gear P. Cod no fishing Zone[4,7]	Vessels < 60 ft. (18.3m) using non trawl gear exempt from column 7 P. cod fishing closures[5]	All pot vessels exempt from P. cod fishing closures[6]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)		
Polivnoi Rock	Gulf of Alaska	53 15.96 N	167 57.99 W			20			
Emerald I.	Gulf of Alaska	53 17.50 N	167 51.50 W			20			
Unalaska/Cape Izigan	Gulf of Alaska	53 13.64 N	167 39.37 W			20			
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			10		Y	Y
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10		Y	Y
Unalaska I./Cape Sedanka	Gulf of Alaska	53 50.50 N	166 05.00 W			20			
Old Man Rocks	Gulf of Alaska	53 52.20 N	166 04.90 W			20			
Akutan I./Cape Morgan	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20			
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10		Y	Y
Rootok	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20			
Tanginak I.	Gulf of Alaska	54 12.00 N	165 19.40 W			20			
Tigalda/Rocks NE	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20			
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			10		Y	Y
Aiktak	Gulf of Alaska	54 10.99 N	164 51.15 W			20			
Ugamak I.	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20			
Round (GOA)	Gulf of Alaska	54 12.05 N	164 46.60 W			20			
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			10		Y	
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10		Y	
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W			10		Y	
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W			10		Y	
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W			10		Y	
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			10		Y	
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			10		Y	
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			10		Y	
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W			10		Y	
Olga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10		Y	
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W			10		Y	
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W			10		Y	
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	10		Y	
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			10		Y	
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	10		Y	
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			10		Y	
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			10		Y	
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			10		Y	
Mitrofania	Gulf of Alaska	55 50.20 N	158 41.90 W			10		Y	
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			20			
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			20			
Sutwik I.[10]	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20			
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20			
Nagai Rocks	Gulf of Alaska	55 49.80 N	155 47.50 W			20			
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20			
Kodiak/Cape Ugat[11]	Gulf of Alaska	57 52.41 N	153 50.97 W			20		Y	
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			20		Y	
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			20		Y	

Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		All P. Cod no fishing zone[3, 7]	Trawl Gear P. Cod no fishing Zone[4, 7]	Vessels < 60 ft. (18.3m) using non trawl gear exempt from column 7 P. cod fishing closures[5]	All pot vessels exempt from P. cod fishing closures[6]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)		
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			20		Y	
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			20		Y	
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			20		Y	
Long I.[2]	Gulf of Alaska	57 46.82 N	152 12.90 W			20		Y	
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			20		Y	
Kodiak/Cape Chiniak[2,8]	Gulf of Alaska	57 37.90 N	152 08.25 W			20		Y	
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			20			
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			20		Y	
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	20			
Nagahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			20		Y	
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			20		Y	
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			20		Y	
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20			
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			20		Y	
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			20		Y	
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			20		Y	
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	20		Y	
Point Elrington	Gulf of Alaska	59 56.00 N	148 15.20 W			20			
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			20			
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			20			
Cape Hinchinbrook	Gulf of Alaska	60 14.00 N	146 38.50 W			20			
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			20			
Hook Point	Gulf of Alaska	60 20.00 N	146 15.60 W			20			
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			20			

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Fishing closure zone is 10 nm between October 1 through December 31.

[3] See 679.22(a)(11)(iii), (a)(12)(v) and (b)(3)(iii).

[4] See 679.22(a)(12)(vi)

[5] See 679.22(a)(13)(iii)(B) and 679.22(b)(7)(ii)(B).

[6] See 679.22(a)(13)(iii)(C).

[7] No fishing zones are the waters between 3 nm and the nm specified in columns 7 and 8 around each site.

[8] The Pacific cod no fishing area extends in an arc from 3nm to 10 or 20 nm to a line connecting the point 57°31'3" N lat./152°17'48" W long. with the point 57°24'36" N lat./151° 40'29" W long

[9] The 20 nm Pacific cod trawl closure around the Gramp Rock rookery is established only for that portion of the area west of 178° W long.

[10] The 20 nm Pacific cod fishing closure around Sutwik haulout is established only for that portion of the area south of a line connecting Cape Kumlik (56°38' N/157°26' W) and the southwestern tip of Tugidak Island (56°24' N/154°41' W).

[11] The 20 nm Pacidic cod fishing closures around Kodiak/Cape Ugat and Shakun Rock haulouts are established only for that portion east of 154°0' 0" W long. and for Shakun Rock, north of 58°23' 05" N lat.

Table 24 to 50 CFR Part 679 Steller Sea Lion Protection Areas for Atka Mackerel Fisheries

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,4]	All pot vessels exempt from Atka mackerel fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20	Y
Attu I./Cape Wrangell	Aleutian Islands	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	10	
Agattu I./Gillon Pt	Aleutian Islands	52 24.13 N	173 21.31 E			10	
Agattu I./Cape Sabak	Aleutian Islands	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	10	
Buldir I.	Aleutian Islands	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	20	
Kiska I./Cape St. Stephen	Aleutian Islands	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	10	
Kiska I./Lief Cove	Aleutian Islands	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	10	
Ayugadak Point	Aleutian Islands	51 45.36 N	178 24.30 E			10	
Amchitka I./Column Rocks	Aleutian Islands	51 32.32 N	178 49.28 E			10	
Amchitka I./East Cape	Aleutian Islands	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	10	
Semisopochnoi/Petrel Pt.	Aleutian Islands	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	10	
Semisopochnoi I./Pochnoi Pt.	Aleutian Islands	51 57.30 N	179 46.00 E			10	
Ulak I./Hasgox Pt.	Aleutian Islands	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	10	
Tag I.	Aleutian Islands	51 33.50 N	178 34.50 W			10	
Gramp Rock	Aleutian Islands	51 28.87 N	178 20.58 W			10	
Tanaga I./Bumpy Pt.[5]	Aleutian Islands	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W	20	
Bobrof I.	Aleutian Islands	51 54.00 N	177 27.00 W			20	
Kanaga I./Ship Rock	Aleutian Islands	51 46.70 N	177 20.72 W			20	
Kanaga I./North Cape	Aleutian Islands	51 56.50 N	177 09.00 W			20	
Adak I.	Aleutian Islands	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	20	
Little Tanaga Strait	Aleutian Islands	51 49.09 N	176 13.90 W			20	
Great Sitkin I.	Aleutian Islands	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W	20	
Anagaksik I.	Aleutian Islands	51 50.86 N	175 53.00 W			20	
Kasatochi I.	Aleutian Islands	52 11.11 N	175 31.00 W			20	
Atka I./N. Cape	Aleutian Islands	52 24.20 N	174 17.80 W			20	
Amlia I./Sviech. Harbor	Aleutian Islands	52 01.80 N	173 23.90 W			20	
Sagigik I.	Aleutian Islands	52 00.50 N	173 09.30 W			20	
Amlia I./East	Aleutian Islands	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W	20	
Tanadak I. (Amlia)	Aleutian Islands	52 04.20 N	172 57.60 W			20	
Agligadak I.	Aleutian Islands	52 06.09 N	172 54.23 W			20	
Seguam I./Saddleridge Pt.	Aleutian Islands	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	20	
Seguam I./Finch Pt.	Aleutian Islands	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W	20	
Seguam I./South Side	Aleutian Islands	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W	20	
Amukta I. & Rocks	Aleutian Islands	52 27.25 N	171 17.90 W			20	
Chagulak I.	Aleutian Islands	52 34.00 N	171 10.50 W			20	

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,4] (nm)	All pot vessels exempt from Atka mackerel fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)		
Yunaska I.	Aleutian Islands	52 41.40 N	170 36.35 W			20	
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			10	Y
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10	Y
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10	Y
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			10	Y
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			10	
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10	

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] See 679.22(a)(12)(vii)

[3] See 679.22(a)(13)(ii)(B)

[4] No fishing zones are the waters between 3 nm and the nm specified in column 7 around each site.

[5] The 20 nm Atka mackerel fishery closure around the Tanaga I./Bumpy Pt. Rookery is established only for that portion of the area east of 178 degrees W longitude.

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

Dated: September 12, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23229 Filed 9–18–01; 9:35 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 66, No. 183
Thursday, September 20, 2001

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–77–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 99–19–32, which applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. AD 99–19–32 currently requires you to inspect the flap actuator internal gear system for correct end-play and backlash measurements and accomplish any corrective adjustments, as necessary. Pilatus has identified modifications for the flap system and designed and manufactured a new flap control and warning unit (FCWU) that permits the flap power drive-unit circuit breaker to close during flight. The proposed AD would require you to repetitively inspect all flap actuator internal gear systems to ensure correct end-play and backlash measurements with any necessary corrective adjustments, incorporate certain modifications to the flap system, and install a new design FCWU. The proposed AD would also require you to modify the flap control wiring and install a flap power drive-unit field control panel. The actions specified by the proposed AD are intended to allow the flap power drive-unit circuit breaker to close during flight and prevent current surges in the flap control system. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before October 26, 2001.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000 CE–77–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may obtain service information that applies to the proposed AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This 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 to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

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

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view 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 contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–77–AD.'' We will date stamp and mail the postcard back to you.

Discussion

Has FAA Taken Any Action to This Point?

Reports of excessive backlash in the flap actuators of the internal gear system on certain Pilatus Models PC–12 and PC–12/45 airplanes caused FAA to issue AD 99–19–32, Amendment 39–11319 (64 FR 50439, September 17, 1999).

AD 99–19–32 currently requires you to inspect the flap actuator internal gear system for correct end-play and backlash measurements and accomplish any corrective adjustments, as necessary.

What Has Happened Since AD 99–19–32 To Initiate This Action?

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA of the need to change AD 99–19–32. The FOCA reports that Pilatus has identified modifications for the flap system and designed and manufactured a new flap control and warning unit (FCWU) that permits the flap power drive-unit circuit breaker to close during flight.

The previous FCWU does not allow the pilot to close the flap power drive-unit circuit breaker during flight and the FCWU cannot sense when a single actuator becomes worn. This could result in flap panel distortion. The incorporation of these modifications to the flap system and the installation of the new design FCWU, Pilatus part number FCWU 99–3, make the current end-play and backlash measurement procedures incorrect.

Pilatus has also identified quality deficiencies with serial numbers less than 100,001 of Pilatus part number FCWU 99–3.

In addition, the FOCA reports that electrical surges in the flap system can decrease the electrical life of the flap

power drive-unit motor contactor. At the 40-degree flaps position, the flaps-down limit switch (S035) operates before the flap control warning unit can stop the extend command, which causes the flap power drive-unit's Up/Down relay (K32) to change from the extend to the retract position. The current in the field winding then goes in the opposite direction while a current still flows to the motor. Electrical current to the flap power drive-unit motor and field windings remains when the circuit breaker (CB034) closes and the motor contactor (K31 or K670) stays closed.

Is There Service Information That Applies to This Subject?

Pilatus has issued Service Bulletin No. 27–008, which incorporates the following pages:

Effective pages	Revision level	Date
1, 2, and 11	2	September 13, 2000.
3 through 10 and 12 through 114	1	June 26, 2000.

Pilatus Service Bulletin No. 27–008 includes procedures for the following:

—Installing the new design FCWU (Pilatus part number FCWU 99–3 with a serial number of 100,001 or higher);

—Installing flap position-indication resolvers at the center and inboard flap actuator positions;

—Removing the flap position-indication resolvers from the outboard flap mechanism;

—Modifying the applicable electrical cables and installing new cables as necessary;

—Installing a remote controlled circuit breaker (RCCB) system;

—Accomplishing the rigging procedure to set the four flap positions (0 degrees, 15 degrees, 30 degrees, and 40 degrees full flap);

—Installing a bus link between CB601, CB034, CB035, CB415, and CB416;

—Replacing the P12H4 wire with P12HO wire;

—Changing the wiring for CB652 and CB653 at Frame 16; and

—Changing the FCWU software specification from Rel. 3.10/R 1.14 to Rel. 3.11/R 1.14.

Pilatus has also issued the following:

—Service Bulletin No. 27–012, dated September 13, 2000, which specifies replacing any Pilatus part number PCWU 99–3, serial number of 100,000 or less, with one that has a serial number of 100,001 or higher;

—Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–13, dated April 30, 2000, which includes updated procedures for inspecting the flap actuator internal gear system for correct end-play and backlash measurements with any necessary corrective adjustment; and

—Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001, which includes procedures for modifying the flap control wiring and installing a flap power drive-unit field control panel.

What Action Did FOCA Take?

The FOCA classified the service information as mandatory and issued the following in order to ensure the continued airworthiness of these airplanes in Switzerland:

—Swiss AD Number HB 2000–443, dated November 9, 2000;

—Swiss AD Number HB 2000–444, dated November 9, 2000; and

—Swiss AD Number HB 2001–070, dated February 12, 2001.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These airplane models are manufactured in Switzerland 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 FOCA 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 FOCA; 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 Pilatus PC–12 and PC–12/45 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?

The proposed AD would supersede AD 99–19–32 and would require you to accomplish the following in accordance with the previously referenced service information:

—Repetitively inspect the flap actuator internal gear system for correct end-play and backlash measurements with any necessary corrective adjustments;

—Incorporate certain modifications to the flap system and install a new design FCWU with a serial number of 100,001 or higher, or FAA-approved equivalent part number; and

—Modify the flap control wiring and install a flap power drive-unit field control panel.

Cost Impact

How Many Airplanes Would the Proposed AD Impact?

We estimate that the proposed AD affects 135 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 initial inspection of the flap actuator internal gear system for end-play and backlash measurements. We have no way of determining the number of corrective adjustments each owner/operator of the affected airplanes would need to accomplish, the nature of such adjustments, or the number of repetitive inspections each owner/operator would incur. Therefore, the cost estimate only takes into account the cost of the proposed initial inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours X $60 per hour = $360	Not applicable	$360	$48,600

We estimate the following costs to incorporate certain modifications to the flap system and install a new design FCWU with a serial number of 100,001 or higher:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
70 workhours X $60 per hour = $4,200	Pilatus will provide parts at no cost to the owner/operator.	$4,200	$567,000

We estimate the following costs to modify the flap control wiring and install a flap power drive-unit field control panel:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
5 workhours X $60 per hour = $300	Pilatus will provide parts at no cost to the owner/operator.	$300	$40,500

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 removing Airworthiness Directive (AD) 99–19–32, Amendment 39–11319 (64 FR 50439, September 17, 1999), and adding a new AD to read as follows:

Pilatus Aircraft Ltd.: Docket No. 2000–CE–77–AD; Supersedes AD 99–19–32, Amendment 39–11319.

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, all serial numbers, that are certificated in any category. Carefully check paragraphs (d)(1) through (d)(6) of this AD for the specific actions that apply to each airplane. All airplanes will be affected by multiple actions specified in these paragraphs.

(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 the AD are intended to allow the flap power drive-unit circuit breaker to close during flight and prevent current surges in the flap control system. If the pilot cannot close the circuit breaker during flight, the flight control and warning unit (FCWU) would not sense a worn actuator. Current surges in the flap control system could decrease the electrical life of the flap power drive-unit motor contactor. Both conditions have the potential for flap system failure with consequent reduced or 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) For airplanes that incorporate a manufacturer serial number (MSN) in the range of 101 through 320, accomplish the following: (i) Do the modifications and installations to the flap system, as specified in the service information. (ii) Install a new design flap control and warning unit (FCWU) (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number.	Within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.

Actions	Compliance	Procedures
(2) If you accomplished the modifications required by paragraph (d)(1) of this AD in accordance with Pilatus Service Bulletin 27–008, all pages at the Revision 1 level, dated June 26, 2000, you only have to install a new design FCWU (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number.	Within the next 50 hours TIS after the effective date of this AD, unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.
(3) For airplanes that incorporate an MSN in the range of 321 through 331, 333, 335, 336, 338 through 341, 343, or 345, install a new design FCWU (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number.	Within the next 50 hours TIS after the effective date of this AD, unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.
(4) For airplanes that incorporate an MSN in the range of 101 through 400, modify the flap control wiring and install a flap power drive-unit field control panel.	Within the next 50 hours TIS after the effective date of this AD.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001.
(5) For all MSN airplanes, inspect the flap actuator internal gear system for correct end-play and backlash measurements and make any necessary corrective adjustments.	Inspect initially within the next 50 hours TIS after the effective date of this AD and thereafter at intervals not to exceed 100 hours TIS. Accomplish corrective adjustments prior to further flight after the inspection where deficiencies are detected.	In accordance with the instruction in Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–13, dated April 30, 2000.
(6) For all MSN airplanes, do not install any Pilatus part number FCWU 99–3 that has a serial number of 100,000 or less.	As of the effective date of this AD	Not Applicable.

Note 1: The FAA recommends that you incorporate the most up-to-date Pilatus reports and revisions pertaining to this subject into the Pilatus PC–12 Pilot's Operating Handbook. The most up-to-date documents as of the issue date of this AD are Temporary Revision No. 15, Report No. 01973-001, Issued: April 3, 2000, Sections 3 and 7; and Temporary Revision No. 32, Report No. 01973–001, Issued: January 8, 2001, Sections 2 and 3.

(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 2: 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 Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; 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 Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Does this amendment affect any other regulation?* This amendment supersedes AD 99–19–32, Amendment 39–11319.

Note 3: The subject of this AD is addressed in Swiss AD Number HB 2000–443, dated November 9, 2000; Swiss AD Number HB 2000–444, dated November 9, 2000; and Swiss AD Number HB 2001–070, dated February 12, 2001.

Issued in Kansas City, Missouri, on September 10, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23412 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–324–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, −20, −30, −40, and −50 Series Airplanes, and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to

certain McDonnell Douglas Model DC–9–10, −20, −30, −40, and −50 series airplanes, and C–9 airplanes. This proposal would require repetitive general visual and x-ray inspections to detect cracks of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead; corrective actions, if necessary; and follow-on actions. For certain airplanes, the proposal also would require modification of the ventral aft pressure bulkhead. This action is necessary to detect and correct fatigue cracks in the corners and upper center of the door cutout of the aft pressure bulkhead, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 5, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–324–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–324–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial 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 FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5324; (562) 627–5210; fax .

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received. Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–324–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–324–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that the repetitive x-ray inspections required by AD 85–01–02 R1, amendment 39–5241 (51 FR 6101, February 20, 1986), do not adequately detect fatigue cracks in all layers of a repaired or modified aft pressure bulkhead. Fatigue cracks in the corners and upper center of the door cutout of the aft pressure bulkhead, if not detected and corrected, could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

Other Relevant Rulemaking

The FAA normally would issue a proposed AD to supersede AD 85–01–02 R1 to continue to require the existing requirements, until the new proposed actions that address the identified unsafe condition are done. This would involve restating the existing requirements of AD 85–01–02 R1 in the new proposed AD. Because of the complexity of the requirements of AD 85–01–02 R1, we plan to issue this proposed AD as a ''stand-alone'' AD that would not supersede AD 85–01–02 R1. We have included a paragraph in this proposed AD that terminates the repetitive inspection requirements of AD 85–01–02 R1. Once a final rule has been issued and it becomes effective, we plan to rescind AD 85–01–02 R1.

The FAA has previously issued AD 96–10–11, amendment 39–9618 (61 FR 24675, May 16, 1996), which requires certain inspections and structural modifications. Accomplishment of the modification (reference Boeing (McDonnell Douglas) Service Bulletin DC9–53–166) required by paragraph (d) or (e) of AD 96–10–11 (which references ''DC–9/MD–80 Aging Aircraft Service Action Requirements Document'' (SARD), McDonnell Douglas Report No. MDC K1572, Revision A, dated June 1, 1990, as the appropriate source of service information for accomplishing the modification) terminates the repetitive inspection requirements of paragraphs (b) and (c) of this AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001, which describes procedures for repetitive general visual and x-ray inspections to detect cracks of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead; corrective actions, if necessary; and follow-on actions. The corrective actions include modification of the bulkhead; trim forward facing flange; stop drill ends of cracks; install repair kit; replacement of cracked part with new parts; and installation of additional doublers. The follow-on actions include repetitive visual and eddy current inspections of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead door. Accomplishment of the general visual and x-ray inspections would eliminate the need for the

repetitive inspection requirements of AD 85–01–02 R1.

The FAA also has reviewed and approved McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, which describes procedures for modification of the ventral aft pressure bulkhead structure (including cutting and removing flange of the upper; cutting and removing the lower flange of formers and replacing it with a clip; installing pads at the outboard end clips of formers; and replacing clearance fit bolts at the upper corner doubler angles with interference fit Hi-Lok pins and monel rivets).

In addition, the FAA has reviewed and approved McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985, which describes, for certain airplanes, procedures for modification of the ventral aft pressure bulkhead (including encapsulating the head and nut of the attachments and applying a fillet seal of sealant around parts located on the forward and aft sides of the aft pressure bulkhead; and applying a soft film corrosion inhibiting compound to the forward and aft sides of the aft pressure bulkhead. For certain airplanes, these procedures must be done in conjunction with those in McDonnell Douglas DC–9 Service Bulletin 53–165.

FAA's Determination

The FAA finds that if, after the effective date of this AD, the airplane is operated without cabin pressurization and a placard that prohibits operation with cabin pressurization is installed in the cockpit in full view of the pilot, the inspections and modification specified in the service bulletins described previously are not necessary.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously; except if, after the effective date of this AD, the airplane is operated without cabin pressurization and a placard that prohibits operation with cabin pressurization is installed in the cockpit in full view of the pilot.

Differences Between the Proposed AD and a Certain Referenced Service Bulletin

McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, and McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001, recommend compliance times with only a ''threshold'' (i.e., before the airplane accumulates 15,000 total landings, within 15,000 landings after the bulkhead modification, and at the earliest practical maintenance period feasible on airplanes that have accumulated more than 15,000 landings, respectively). These service bulletins do not provide a ''grace period'' for airplanes that have already reached (or will soon reach) the 15,000-landing threshold, which would result in some airplanes being in immediate non-compliance with the rule upon reaching the stated number of landings. Therefore, the compliance times specified in paragraphs (a), (d)(1), and (d)(2) of this proposed AD include a grace period of ''within 4,000 landings after the effective date of this AD.'' The FAA finds such a grace period for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 700 Model DC–9–10, −20, −30, −40, and −50 series airplanes, and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 397 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 5 work hours per airplane to accomplish the proposed inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $119,100, or $300 per airplane, per inspection cycle.

For certain airplanes, it would take approximately between 21 and 26 work hours per airplane depending on the airplane configuration to accomplish the proposed modification specified in McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, at an average labor rate of $60 per work hour. Required parts would cost approximately between $3,470 and $11,831 per airplane, depending on the airplane configuration. Based on these figures, the cost impact of this proposed modification AD on U.S. operators is estimated to be between $4,730, or $13,391 per airplane.

For certain airplanes, it would take approximately 9 work hours per airplane to accomplish the proposed modification specified in McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed modification AD on U.S. operators is estimated to be $540 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–324–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 airplanes, equipped with a floor level hinged (ventral) door of the aft pressure bulkhead; as listed in McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001; certificated in any category; except for those airplanes on which the modification required by paragraph (d) or (e) of AD 96–10–11, amendment 39–9618, or paragraph K. of AD 85–01–02 R1, amendment 39–5241, has been done.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracks in the corners and upper center of the door cutout of the aft pressure bulkhead, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

Visual and X-Ray Inspection

(a) Except as provided by paragraph (h) of this AD, prior to the accumulation of 15,000 total landings, or within 4,000 landings after the effective date of this AD, whichever occurs later, do a general visual and x-ray inspection to detect cracks of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead, per McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001.

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

No Crack Detected: Repetitive Inspections

(b) If no crack is detected during any inspection required by paragraph (a) of this AD, within 8,000 landings after accomplishment of the general visual and x-ray inspections required by paragraph (a) of this AD, do a general visual inspection and eddy current inspection of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead door, per McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001. Repeat the general visual and eddy current inspections required by this paragraph every 8,000 landings.

Any Crack Detected: Corrective Actions and Repetitive Inspections

(c) If any crack is detected during any inspection required by paragraph (a) or (b) of this AD, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD per McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001.

(1) Before further flight, do the applicable corrective actions (i.e., modification of the bulkhead; trim forward facing flange; stop drill ends of cracks; install repair kit; replacement of cracked part with new parts; and install additional doublers) identified in Conditions I through XLIII inclusive, excluding Conditions XXI, XXXVII, and XXXVIII (not used at this time), of the Accomplishment Instructions of the service bulletin; and

(2) At the times specified in the Accomplishment Instructions of the service bulletin, do the applicable repetitive inspections, until the action specified in paragraph (d) or (g) of this AD has been done.

Concurrent Requirements

(d) Except as provided by paragraph (h) of this AD, modify the ventral aft pressure bulkhead structure by accomplishing all actions specified in Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, per the service bulletin; at the applicable time specified in paragraph (d)(1), (d)(2), or (d)(3) of this AD.

Note 3: Modification before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 53–165, dated January 31, 1983; Revision 1, dated February 20, 1984; or Revision 2, dated August 29, 1986; is considered acceptable for compliance with the requirements of paragraph (d) of this AD.

(1) For airplanes on which the bulkhead modification specified in McDonnell Douglas DC–9 Service Bulletin 53–139, dated September 26, 1980, or Revision 1, dated April 30, 1981, has been done, except as provided by paragraph (d)(3) of this AD: Modify within 15,000 landings after accomplishment of the bulkhead modification, or within 4,000 landings after the effective date of this AD, whichever occurs later. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraphs (b) and (c)(2) of this AD.

(2) For airplanes on which the production equivalent of the modification specified in paragraph (d)(1) of this AD has been done before delivery, except as provided by paragraph (d)(3) of this AD: Modify before the accumulation of 15,000 total landings, or within 4,000 landings after the effective date of this AD, whichever occurs later.

(3) For airplanes listed in McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, that are specified in paragraph (e) of this AD: Modify in conjunction with the requirements of paragraph (e) of this AD, or within 18 months after accomplishment of requirements of paragraph (e) of this AD.

(e) For Model DC–9–30 and –50 series airplanes and C–9 airplanes, as listed in McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985: Within 18 months after the effective date of this AD, modify the ventral aft pressure bulkhead per the service bulletin.

Note 4: Modification before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 53–157, dated August 11, 1981, is considered acceptable for compliance with the requirements of paragraph (e) of this AD.

Compliance With AD 85–01–02 R1

(f) Accomplishment of the visual and x-ray inspections required by paragraph (a) of this AD constitutes terminating action for the repetitive inspection requirements of AD 85–01–02 R1.

Terminating Modification

(g) Accomplishment of the modification (reference McDonnell Douglas DC–9 Service Bulletin 53–166) required by paragraph (d) or (e) of AD 96–10–11, amendment 39–9618 (61 FR 24675, May 16, 1996) (which references ''DC–9/MD–80 Aging Aircraft Service Action Requirements Document'' (SARD), McDonnell Douglas Report No. MDC K1572, Revision A, dated June 1, 1990, as the appropriate source of service information for accomplishing the modification) terminates the repetitive inspection requirements of paragraphs (b) and (c) of this AD.

Exception to Inspections and Modifications

(h) The inspections and modifications required by this AD do NOT need to be done if, after the effective date of this AD, the airplane is operated without cabin pressurization and a placard is installed in the cockpit in full view of the pilot that states the following:

''OPERATION WITH CABIN PRESSURIZATION IS PROHIBITED.''

Alternative Methods of Compliance

(i) 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 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(j) 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.

Issued in Renton, Washington, on September 14, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23417 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–46–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F Series Airplanes; Model MD–10–10F and –30F Series Airplanes; and Model MD–11 and –11F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; Model MD–10–10F and –30F series airplanes; and Model MD–11 and –11F series airplanes. This proposal would require repetitive tests for electrical continuity and resistance and repetitive inspections to detect discrepancies of the fuel boost/transfer pump connectors; and corrective actions, if necessary. This action is necessary to prevent arcing of connectors in the fuel boost/transfer pump circuit, which could result in a fire or explosion of the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 5, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–46–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–46–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial 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 FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Phil Kush, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5263; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–46–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–46–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of five instances of failed connectors in the fuel boost/transfer pump circuit on McDonnell Douglas Model DC–10 and MD–11 series airplanes. The connectors returned for evaluation exhibited arcing of the contacts to the shell in the back side of the connector and between the glass insert and potting material. Arcing also caused the potting material to be displaced from the glass seal in the connector backshell, which separated the contacts and wiring. Typically, the circuit breaker will not trip, as the arcing event is faster than the time required for the circuit breaker to detect the event. The only indication has been that failed connectors cause loss of the fuel boost/transfer pump circuit. The cause of the connector failures is under investigation. Arcing of connectors of the fuel boost/transfer pump, if not corrected, could result in a fire or explosion of the fuel tank.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin MD11–28A112, including Appendix, dated December 11, 2000 (for Model MD–11 and –11F series airplanes) and Boeing Alert Service Bulletin DC10–28A228, including Appendix, dated December 11, 2000, and Revision 01, dated July 16, 2001 (for Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and –30F series airplanes). The service bulletins describe procedures for repetitive tests (using a digital multi meter and Quadtech 1864 megohm meter) for electrical continuity and resistance and repetitive general visual inspections to detect discrepancies (*e.g.*, damage, arcing, loose parts, wear) of the fuel boost/transfer pump connectors (alternating current pumping unit); and corrective actions, if necessary. The

corrective actions include replacement of the connector/wire assembly with a serviceable connector/wire assembly, and replacement of the pump with a serviceable fuel boost/transfer pump; as applicable.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

Interim Action

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

Cost Impact

There are approximately 399 Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and –30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 313 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 65 work hours per airplane to accomplish the proposed tests and inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,220,700, or $3,900 per airplane, per test or inspection cycle.

There are approximately 179 Model MD–11 and –11F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 115 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 78 work hours per airplane to accomplish the proposed tests and inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $538,200, or $4,680 per airplane, per test or inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2001–NM–46–AD.

Applicability: Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes, and Model MD–10–10F and –30F series airplanes; as listed in Boeing Alert Service Bulletin DC10–28A228, including Appendix, Revision 01, July 16, 2001; and Model MD–11 and –11F series airplanes, as listed in Boeing Alert Service Bulletin MD11–28A112, including Appendix, dated December 11, 2000; certificated in any category.

Note 1: Airplanes on which the fuel/boost pump and wiring connector have been physically removed and the fuel tank has been made inoperable are NOT subject to the requirements of this AD.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent arcing of connectors of the fuel boost/transfer pump, which could result in a fire or explosion of the fuel tank, accomplish the following:

Repetitive Tests and Inspections

(a) Within 6 months after the effective date of this AD, do tests (using a digital multimeter and Quadtech 1864 megohm meter) for electrical continuity and resistance and general visual inspections to detect discrepancies (*e.g.*, damage, arcing, loose parts, wear) of the fuel boost/transfer pump (alternating current pumping unit) by accomplishing all the actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A112, including Appendix, dated December 11, 2000 (for Model MD–11 and –11F series airplanes), or Boeing Alert Service Bulletin DC10–28A228, including Appendix, dated December 11, 2000, or Revision 01, dated July 16, 2001 (for Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes, and Model MD–10–10F and –30F series airplanes); as applicable. Repeat the tests and inspections thereafter every 18 months.

Note 3: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Corrective Actions, If Necessary

(b) If the result of any test required by paragraph (a) of this AD is outside the limits specified in the applicable service bulletin identified in that paragraph, or if any

discrepancy is detected during any inspection required by paragraph (a) of this AD, before further flight, accomplish corrective actions (e.g., replacement of connector/wire assembly with serviceable connector/wire assembly, and replacement of the pump with a serviceable fuel boost/transfer pump), as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A112, including Appendix, dated December 11, 2000 (for Model MD–11 and –11F series airplanes), or Boeing Alert Service Bulletin DC10–28A228, including Appendix, dated December 11, 2000, or Revision 01, dated July 16, 2001 (for Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes, and Model MD–10–10F and –30F series airplanes); as applicable.

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

Special Flight Permit

(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.

Issued in Renton, Washington, on September 14, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23419 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF JUSTICE

28 CFR Part 25

[FBI 108N; AG Order No. 2514–2001]

RIN 1110–AA07

National Instant Criminal Background Check System

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Notice of proposed rulemaking; notice of reopening of comment period.

SUMMARY: On July 6, 2001, at 66 FR 35567, the Department published a notice of proposed rulemaking (NPRM) concerning five proposed changes in the National Instant Criminal Background Check System (NICS) regulations. The original 60-day comment period for the July 6, 2001 NPRM closed on September 4, 2001. In order to ensure that the public has ample opportunity to review and comment on the proposed changes to the NICS regulations, the Department is reopening the comment period and will accept comments for an additional 30-day period. Any comments received by the Department after the initial comment period ended on September 4, 2001, and before the publication of this action will be treated has having been timely filed and will be considered along with all other comments received after the NPRM was published through the end of the reopened comment period.

DATES: Written comments must be received by October 22, 2001.

ADDRESSES: All comments should be sent to: Mr. Timothy Munson, Section Chief, Federal Bureau of Investigation, Module A–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0147, (304) 625–2000.

Dated: September 14, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–23349 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–152–FOR; State Program Amendment No. 2001–1]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The proposed amendment concerns recodification of Indiana's rules for coal mining and reclamation operations. It includes revisions to the rules pertaining to the definition of ''affected area,'' identification of interests, compliance information, permit conditions, and public availability of permit applications. Indiana intends to revise its program in response to Indiana legislation requiring all State agency rules to be recodified every seven years.

This document gives the times and locations that the Indiana program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., e.s.t., October 22, 2001. If requested, we will hold a public hearing on the amendment on October 15, 2001. We will accept requests to speak at the hearing until 4 p.m., e.s.t. on October 5, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below.

You may review copies of the Indiana program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226–6700

Indiana Department of Natural Resources, Bureau of Mine Reclamation, 402 West Washington Street, Room W–295, Indianapolis, Indiana 46204, Telephone: (317) 232–1291

Indiana Department of Natural Resources, Division of Reclamation, R.R. 2, Box 129, Jasonville, Indiana 47438–9517, Telephone: (812) 665–2207

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Telephone: (317) 226–6700, Internet: IFOMAIL@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program

includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of this criteria, the Secretary of the Interior conditionally approved the Indiana program on July 29, 1982. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, and 914.16.

II. Description of the Proposed Amendment

By letter dated August 21, 2001 (Administrative Record No. IND–1712), Indiana sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Indiana sent the amendment at its own initiative. Indiana proposes to recodify its rules from Title 310 Indiana Administrative Code (IAC) 12 to Title 312 IAC 25. Editorial changes, including structural and grammatical changes, were made throughout the recodified rules. The amendment includes revisions to Indiana's recodified rules at 312 IAC 25–1–8, definition of ''affected area''; 312 IAC 25–4–17, surface mining permit applications-identification of interests; 312 IAC 25–4–18, surface mining permit applications-compliance information; 312 IAC 25–4–58, underground mining permit applications-identification of interests; 312 IAC 25–4–59, underground mining permit applications-compliance information; 312 IAC 25–4–113, public availability of permit application information; and 312 IAC 25–4–118, permit conditions. Below is a summary of the substantive changes proposed by Indiana. The full text of the proposed program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. 312 IAC 25–1–8 (previously 310 IAC 12–0.5–6) Definition of Affected Area

Indiana is recodifying the definition of affected area at 312 IAC 25–1–8 with exceptions. Indiana is not recodifying the currently approved provisions at 310 IAC 12–0.5–6(a)(5), (b), and (c). This has the effect of removing these provisions from its approved program.

B. 312 IAC 25–4–17 (previously 310 IAC 12–3–19.1) Surface Mining Permit Applications-Identification of Interests

Indiana's rule at 312 IAC 25–4–17 specifies the information that must be included in a surface mining permit application for identification of interests. Indiana proposes to restructure this section to comply with formatting guidelines set out by the Indiana Legislative Services Agency.

C. 312 IAC 25–4–18 (previously 310 IAC 12–3–20) Surface Mining Permit Applications-Compliance Information and 312 IAC 25–4–59 (previously 310 IAC 12–3–58) Underground Mining Permit Applications-Compliance Information

Indiana's rules at 312 IAC 25–4–18 and 25–4–59 specify the information that must be included in a permit application concerning permit suspensions or revocations, bond forfeitures, and notices of violation. Indiana proposes minor restructuring to comply with formatting guidelines set by the Indiana Legislative Services Agency. Indiana proposes to change 312 IAC 25–4–18(a)(3) and 25–4–59(a)(3) to read as follows:

(3) A list of all violation notices received by the applicant during the three (3) year period preceding the application date, and a list of all outstanding violation notices received prior to the date of the application by any surface coal mining operation that is deemed or presumed to be owned or controlled by either the applicant or any person who is deemed or presumed to own or control the applicant under the definition of ''owned or controlled'' and ''owns and controls'' in 312 IAC 25–1–94. For each notice of violation issued under 312 IAC 25–7–6 or under a federal or state program for which the abatement period has not expired, the applicant shall certify that such notice of violation is in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation.

Indiana also proposes to add the following new provision at 312 IAC 25–4–59(b):

(b) After the applicant is notified that his or her application is approved, but before the permit is issued, the applicant shall as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under this section.

D. 312 IAC 25–4–58 (previously 310 IAC 12–3–57) Underground Mining Permit Applications; Identification of Interests

Indiana's rule at 312 IAC 25–4–58 specifies the information that must be included in an underground mining permit application for identification of interests. The language and structure of the existing provisions were revised to make the new rule consistent with Indiana's surface mining permit application requirements for identification of interests at 312 IAC 25–4–17 (previously 310 IAC 12–3–19.1).

E. 312 IAC 25–4–113 (previously 310 IAC 12–3–110) Public Availability of Permit Application Information

Indiana is recodifying its provisions concerning public availability of permit application information at 312 IAC 25–4–113 with an exception. Indiana is not recodifying the previously approved provision at 310 IAC 12–3–110(f) concerning the confidentiality of information on the nature and location of archaeological resources on public and Indian land. This has the effect of removing this provision from its approved program.

F. 312 IAC 25–4–118 (previously 310 IAC 12–3–114.5) Permit Conditions

Indiana proposes to add 312 IAC 25–4–118 to specify the conditions under which a permit is issued. Section 25–4–118(1) requires the permittee to conduct surface coal mining and reclamation operations only on those lands that are specifically designated as the permit area and bonded. Section 25–4–118(2) requires the permittee to conduct operations only as described in the approved application, except to the extent otherwise directed in the permit. Section 25–4–118(3) requires the permittee to comply with the terms and conditions of the permit and all applicable performance standards and requirements of the Indiana program. Section 25–4–118(4) requires the permittee to allow authorized representatives of the Director of the Indiana Department of Natural Resources to have right of entry and to be accompanied by private persons when the inspection is in response to an alleged violation reported by a private person. Section 25–4–118(5) requires the permittee to take all possible steps to minimize adverse impacts to the environment or public health and safety resulting from a noncompliance with any term or condition of the permit. Section 25–4–118(6) requires the permittee to comply with the requirements of the Indiana program for compliance, modification, or abandonment of existing structures. Section 25–4–118(7) requires the operator to pay all reclamation fees. Section 25–4–118(8) requires the permittee to submit updates, if any, to the information previously submitted under 312 IAC 25–4–17(c) within 30 days after a cessation order is issued under 312 IAC 25–7–5.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Indiana program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. IN–152–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Indianapolis Field Office at (317) 226–6700.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Indianapolis Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on October 5, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined 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.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 24, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–23503 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

[SPATS No. LA–021–FOR]

Louisiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Louisiana regulatory program (Louisiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Louisiana proposes revisions to and additions of regulations concerning valid existing rights. Louisiana intends to revise the Louisiana program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Louisiana program and the proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.d.t., October 22, 2001. If requested, we will hold a public hearing on the amendment on October 15, 2001. We will accept requests to speak at the hearing until 4 p.m., c.d.t. on October 5, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Louisiana program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Louisiana Department of Natural Resources, Office of Conservation, Injection and Mining Division, 625 N . 4th Street, PO Box 94275, Baton Rouge, LA 70804, Telephone: (225) 342–5540.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: *mwolfrom@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of this criteria, the Secretary of the Interior approved the Louisiana program on October 10, 1980. You can find background information on the Louisiana program, including the Secretary's findings and the disposition of comments in the October 10, 1980, **Federal Register** (45 FR 67340). You can find later actions concerning the Louisiana program at 30 CFR 918.15 and 918.16.

II. Description of the Proposed Amendment

By letter dated August 3, 2001 (Administrative Record No. LA–366.04), Louisiana sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Louisiana sent the amendment in response to our letters dated August 23, 2000, and March 14, 2001 (Administrative Record Nos. LA–366 and LA–366.03, respectively), that we sent to Louisiana under 30 CFR 732.17(c). Louisiana proposes to amend the Louisiana Surface Mining Regulations to be consistent with the corresponding Federal regulations on valid existing rights that were published on December 17, 1999 (64 FR 70766). Below is a summary of the changes proposed by Louisiana. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Section 105 Definition of Valid Existing Rights

Louisiana proposes to replace its currently approved definition of ''valid existing rights'' with a new definition that sets out the circumstances under which a person may, subject to the

Office of Conservation's (office) approval, conduct surface coal mining operations on lands where it would otherwise be prohibited by section 922.D of the Louisiana Surface Mining and Reclamation Act or section 1105 of the Louisiana Surface Mining Regulations. Section 105.a provides that a person claiming valid existing rights for any type of surface coal mining operations other than roads must make a property rights demonstration. It includes provisions for the type of documents needed and interpretation of the documents used for the demonstration. Section 105.b provides that a person claiming valid existing rights also must demonstrate compliance with either a good faith/all permits standard or a needed for and adjacent standard. Section 105.b.i contains provisions for the good faith/all permits standard, and section 105.b.ii includes provisions for the needed for and adjacent standard. Section 105.c provides that a person who claims valid existing rights to use or construct a road across the surface of protected lands must demonstrate that one or more of the circumstances listed in paragraphs c.i through c.iii exist if the road is included within the definition of surface coal mining operations in section 105. The circumstances listed in paragraphs c.i through c.iii include provisions specifying that: (1) The road existed when the land upon which it is located came under protection and the person has a legal right to use the road, (2) a properly recorded right-of-way or easement for a road in that location existed when the land came under protection, and (3) a valid permit for use or construction of a road in that location existed when the land came under protection.

B. Section 2323 Valid Existing Rights Determination

Louisiana proposes to add provisions concerning submission and processing of requests for valid existing rights determinations. Section A requires submission of a request for a valid existing rights determination if surface coal mining operations will be conducted on the basis of valid existing rights under section 1105. Section A.1 includes provisions for requesting a determination for roads. Section B includes procedures for an initial review of a request for a determination that valid existing rights have been demonstrated. Section C includes requirements and procedures for public notice and comment. Section D contains procedures and criteria for making a final decision on the request for a determination that valid existing rights have been demonstrated. Section E specifies that a determination of an applicant having or not having valid existing rights is subject to administrative and judicial review. Section F requires Louisiana to make a copy of the request for a valid existing rights determination and records associated with the request available to the public.

C. Section 1107 Procedures

Louisiana is proposing to revise section 1107.B by removing the existing first sentence and adding the following provisions:

B. The office shall reject any portion of the application that would locate surface coal mining operations on land protected under § 1105 unless:

1. A person has valid existing rights for the land, as determined under § 2323;

2. The applicant obtains a waiver or exception from the prohibitions of § 1105 in accordance with §§ 1107.C or D; or

3. For lands protected by § 1105.A.3, both the office and the agency with jurisdiction over the park or place jointly approve the proposed operation in accordance with § 1107.E.

The remaining existing sentences will be added to the end of the new provision in section 1107.B.3.

D. Section 2111 General Requirements: Development Operations Involving Removal of More than 250 Tons

At section 2111.A.8, Louisiana is proposing that the application for a development operation involving removal of more than 250 tons of coal must contain the following additional information:

8. For any lands listed in § 1105, a demonstration that to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection [of] § 1105, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of § 1105.

E. Section 2113 Applications: Approval or Disapproval of Development of More Than 250 Tons

At section 2113.B.4, Louisiana is proposing the following new finding that must be made before the Commissioner of the Office of Conservation approves a complete application for a development operation involving removal of more than 250 tons of coal:

4. Will, with respect to exploration activities on any lands protected under § 1105, minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the office will provide reasonable opportunity to the owner of the feature causing the land to come under the protection of § 1105, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of § 1105, to comment on whether the finding is appropriate.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Louisiana program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. LA–021–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as

representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on October 5, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined 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.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 918

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 16, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–23505 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SPATS No. TX–048–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposes revisions to regulations concerning valid existing rights. Texas intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Texas program and the proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.d.t., October 22, 2001. If requested, we will hold a public hearing on the amendment on October 15, 2001. We will accept requests to speak at the hearing until 4 p.m., c.d.t. on October 5, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Texas program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, Capitol Station, P.O. Box 12967, Austin, Texas 78711–2967, Telephone: (512) 463–6900.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: *mwolfrom@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program on February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions concerning the Texas program at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendment

By letter dated July 25, 2001 (Administrative Record No. TX–653.02), Texas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Texas sent the amendment in response to our letter dated August 23, 2000 (Administrative Record No. TX–653), that we sent to Texas under 30 CFR 732.17(c). Texas proposes to amend Title 16 Texas Administrative Code Chapter 12. Below is a summary of the changes proposed by Texas. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Section 12.3 Definitions

Texas proposes to:

1. Renumber the definitions in this section starting with the definition numbered (169),

2. Delete the definition of ''surface coal mining operations which exist on the date of enactment,'' and

3. Replace the definition of ''valid existing rights'' with a new definition of ''valid existing rights.''

B. Section 12.71 Areas Where Mining Is Prohibited or Limited

Texas proposes to revise the section title to read, ''Areas where surface coal mining operations are prohibited or limited.'' Texas also proposes to delete the existing language in this section and replace it with new language.

C. Section 12.72 Procedures

Texas proposes to revise the section title to read, ''Procedures for compatibility findings, public road closures and relocations, buffer zones, and valid existing rights determinations.'' Texas also proposes to delete the existing language in this section and replace it with new language.

D. Section 12.73 Responsibility

1. Texas proposes to redesignate this section as new Section 12.74 Responsibility.

2. Texas proposes to revise the title of existing section 12.73 to read, ''Commission obligations at time of permit application review.'' Texas also proposes to add language in this section that establishes criteria for rejecting any portion of an application that would locate surface coal mining operations on protected lands and that establishes procedures for joint approval of mining operations that will adversely affect publicly owned parks or historic places.

E. Section 12.77 Exploration on Land Designated as Unsuitable for Surface Coal Mining Operations

1. Texas proposes to revise the section title to read, ''Applicability and restrictions on exploration on land designated as unsuitable for surface coal mining operations.''

2. Texas proposes to designate the existing paragraph in this section as paragraph (b) Exploration restrictions.

3. Texas proposes to add a new paragraph (a) to read as follows:

(a) Applicability. Pursuant to appropriate petitions, lands listed in § 12.71(a) of this title (relating to Areas Where Surface Coal Mining Operations Are Prohibited Or Limited) are subject to designation as unsuitable for all or certain types of surface coal mining operations under this Division and Division 4 of Subchapter F (relating to Lands Unsuitable for Mining).

F. Section 12.111 General Requirements: Exploration of More Than 250 Tons

1. Texas proposes to revise the section title to read, ''General requirements: Exploration that will remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations.''

2. Texas proposes to add new paragraph (1)(H) to read as follows:

(H) for any lands listed in § 12.71(a) of this title (relating to Areas Where Surface Coal Mining Operations Are Prohibited or Limited), a demonstration that, to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of § 12.71(a) of this title, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of § 12.71(a) of this title.

G. Section 12.112 Applications: Approval or Disapproval of Exploration of More Than 250 Tons

1. Texas proposes to revise the section title to read, ''Applications: Approval or disapproval of exploration of more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations.''

2. Texas proposes to add new paragraph (b)(4) that reads as follows:

(4) with respect to exploration activities on any lands protected under § 12.71(a) of this title (relating to Areas Where Surface Coal Mining Operations Are Prohibited or Limited), minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the Commission must provide reasonable opportunity to the owner of the feature causing the land to come under the protection of § 12.71(a) of this title, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of § 12.71(a) of this title, to comment on whether the finding is appropriate.

H. Section 12.113 Applications: Notice and Hearing for Exploration of More Than 250 Tons

Texas proposes to add a phrase to paragraph (a) that requires the Commission to notify those who comment on the exploration permit application of the Commission's decision to approve or disapprove the application.

I. Section 12.118 Relationship to Areas Designated Unsuitable for Mining

1. Texas proposes to revise paragraph (a) to read as follows:

(a) Each application shall contain available information on whether the proposed permit area is within an area designated unsuitable for surface coal mining and reclamation or is within an area under study for designation in an administrative proceeding under §§ 12.74–12.77 of this title (relating to Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations) and §§ 12.78–12.85 of this title (relating to Process for Designating Areas as Unsuitable for Surface Coal Mining Operations).

2. Texas proposes to revise paragraph (c) to read as follows:

(c) If an applicant proposes to conduct surface coal mining activities within 100 feet of a public road or within 300 feet of an occupied dwelling, the application must meet the requirements of § 12.72(a) or (b) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), respectively.

J. Section 12.151 and Section 12.191 Protection of Public Parks and Historic Places

Texas proposes to delete the existing language in paragraphs (a)(2) and replace it with the following language:

(2) If a person has valid existing rights, as determined under § 12.72(c) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), or if joint agency approval is to be obtained under § 12.73(d) of this title (relating to Commission Obligations at Time of Permit Application Review), to minimize adverse impacts.

K. Section 12.152 and Section 12.192 Relocation or Use of Public Roads

Texas proposes to revise the existing language in the introductory paragraphs to read as follows:

Each application shall describe, with appropriate maps and cross sections, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under § 12.72(a) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), the applicant seeks to have the Commission approve:

L. Section 12.158 Relationship to Areas Designated Unsuitable for Mining

1. Texas proposes to revise paragraph (a) to read as follows:

(a) Each application shall contain available information on whether the proposed permit area is within an area designated unsuitable for surface coal mining and reclamation or is within an area under study for designation in an administrative proceeding under §§ 12.73–12.77 of this title (relating to Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations) and §§ 12.78–12.85 of this title (relating to Process for Designating Areas as Unsuitable for Surface Coal Mining Operations).

2. Texas proposes to revise paragraph (c) to read as follows:

(c) A application that proposes to conduct surface coal mining activities within 100 feet of a public road or within 300 feet of an occupied dwelling must meet the requirements of § 12.72(a) or (b) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), respectively.

M. Section 12.207 Public Notices of Filing of Permit Applications

Texas proposes to revise paragraph (a)(5) to read as follows:

(5) if an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road, except where public notice and hearing have previously been provided for this particular part of the road in accordance with § 12.72(a) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), a concise statement describing the public road, the particular part to be relocated or closed, where the relocation or closure is to occur, and the duration of the relocation or closure.

N. Section 12.216 Criteria for Permit Approval or Denial

Texas proposes to revise paragraphs (4)(A)–(E) and paragraph (5) to read as follows:

(4) the proposed permit area is:

(A) not included within an area designated unsuitable for surface coal mining operations under §§ 12.74–12.77 of this title (relating to Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations) and § 12.78–12.85 of this title (relating to Process for Designating Areas as Unsuitable for Surface Coal Mining Operations) or within an area subject to the prohibitions of § 12.71(a) of this title (relating to Areas Where Surface Coal Mining Operations Are Prohibited Or Limited); or

(B) not within an area under study for designation as unsuitable for surface coal mining operations or in an administrative proceeding begun under §§ 12.78–12.85 of this title (relating to Process for Designating Areas as Unsuitable for Surface Coal Mining Operations), unless the applicant demonstrates that, before January 4, 1977, he or she made substantial legal and financial commitments in relation to the operation for which he or she is applying for a permit; or

(C) not on any lands subject to the prohibitions or limitations of § 12.71(a)(1), (a)(6) or (a)(7) of this title; or

(D) not within 100 feet of the outside right-of-way line of any public road, except as

provided for in § 12.72(a) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations); or

(E) not within 300 feet from any occupied dwelling, except as provided for in § 12.71(a)(5) of this title;

(5) the proposed operations will not adversely affect any properties listed on and eligible for listing on the National Register of Historic Places, except as provided for in § 12.71(a)(3) of this title. This finding may be supported in part by inclusion of appropriate permit conditions, revisions in the operation plan, or a documented decision by the Commission that no additional protection measures are required under the National Historic Preservation Act;

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Texas program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. TX–048–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on October 5, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of this section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each program is drafted and promulgated by a specific State, not OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National

Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined 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.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 10, 2001.

Malcolm Ahrens,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–23504 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA246–0286; FRL–7058–4]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District portion of the California State Implementation Plan (SIP). These revisions concern recordkeeping requirements as well as volatile organic compound (VOC) emissions from spray coating operations, metal parts and products coating operations, coating and ink manufacturing, surfactant manufacturing, and polyester resin operations. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by October 22, 2001.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814; and,

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1185.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the SCAQMD and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD	109	Record Keeping for Volatile Organic Compound Emissions	11/17/00	3/14/01
SCAQMD	481	Spray Coating Operations	11/17/00	3/14/01
SCAQMD	1107	Coating of Metal Parts & Products	11/17/00	3/14/01
SCAQMD	1141.1	Coating and Ink Manufacturing	11/17/00	3/14/01
SCAQMD	1141.2	Surfactant Manufacturing	11/17/00	3/14/01
SCAQMD	1162	Polyester Resin Operations	11/17/00	3/14/01

On May 25, 2001, EPA found these rule submittals met the completeness criteria in 40 CFR part 51, appendix V. These criteria must be met before formal EPA review may begin.

B. Are There Other Versions of These Rules?

We approved versions of the following rules into the SIP on the dates listed: Rule 109, April 13, 1995; Rule 481, January 21, 1981; Rule 1107, August 19, 1999; Rule 1141.1, May 4, 1999; Rule 1141.2, January 15, 1987; and, Rule 1162, August 25, 1994. Between these SIP incorporations and today, CARB has made no intervening submittals of these rules.

C. What Is the Purpose of the Submitted Rule Revisions?

The submitted rule revisions amend the record keeping requirements allowing monthly recordkeeping when sources use coatings that comply with their relevant SCAQMD Regulation XI rule. In some cases, this allowance for monthly recordkeeping is related to an exemption based on monthly coating use rather than daily coating use. Sources subject to daily use or VOC limits in any applicable SCAQMD rule may not use a monthly recordkeeping option. SCAQMD made other minor rule changes such as adding new definitions to Rule 109, deleting definitions from the subject rules if they are defined in Rule 102—Definitions, and deleting obsolete exemptions. The TSD for each rule explains its revisions in more detail.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so these rules must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Document,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. ''Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products,'' USEPA, June 1978, EPA–450/2–78–015.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. SCAQMD did several studies to examine the probable effects of changing the recordkeeping threshold from a daily to a monthly threshold. These studies looked at the overall effects and rule specific effects of changing the recordkeeping requirements. The concern was whether or not a facility would change its daily activities and resulting emission patterns when allowed an option for a monthly recordkeeping regime as opposed to a daily requirement. From the results, it appeared that average daily usage did not change under either recordkeeping regime. Regarding rule specific emission increases, SCAQMD found that there would be little or no change to overall or daily VOC emissions for the subject rules. For further information, the TSD for each rule reviews the emissions analysis specific to that rule.

C. EPA Recommendations To Further Improve the Rules

The TSDs for Rules 1107 and 1162 describe additional rule revisions concerning capture and control efficiency test methods that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

D. Public Comment and Final Action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Background Information

Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990.	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this proposed action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 27, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–23478 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Docket #OR–00–002b; FRL–7045–1]

Approval and Promulgation of State Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Environmental Protection Agency (EPA) proposes to approve the revisions to Oregon's State Implementation Plan which were submitted on November 20, 2000. These revisions consist of the 1996 carbon monoxide periodic year emissions inventory for Klamath Falls, Oregon and the Klamath Falls carbon monoxide maintenance plan. EPA also proposes to approve Oregon's request for redesignation of Klamath Falls from nonattainment to attainment for carbon monoxide.

In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. If no adverse comments are received in response to this action, no further activity is contemplated.

If the 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. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received in writing by October 22, 2001.

ADDRESSES: Written comments should be addressed to Connie Robinson, Office of Air Quality (OAQ–107), at the EPA Regional Office listed below.

Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–1086.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

Dated: August 21, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–23219 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[CA–035–MSWb; FRL–7058–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the California State Plan for implementing the emissions guidelines applicable to existing municipal solid waste landfills. The revision to the State Plan was submitted by the California Air Resources Board for the State of California to satisfy requirements of section 111(d) of the Federal Clean Air Act. In the Final Rules section of this **Federal Register**, EPA is approving the revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this action, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant 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 on this action.

DATES: Comments must be received in writing by October 22, 2001.

ADDRESSES: Written comments should be addressed to Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne

Street, San Francisco, CA 94105–3901. Copies of the documents relevant to this proposed rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted revision to the State Plan are also available for inspection at the following location: California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Air Division (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION: This document concerns the approval of a revision submitted by the California Air Resources Board on December 20, 2000, to the State of California's Section 111(d) Plan for Existing Municipal Solid Waste Landfills. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Dated: August 8, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–23480 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ040–OPP; FRL–7058–7]

Clean Air Act Proposed Approval of Operating Permit Programs; Pinal County Air Quality Control District, AZ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Pinal County Air Quality Control District (Pinal or District) operating permit program. The Pinal operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to the Pinal operating permit program on October 30, 1996. See 61 FR 55910. The District consequently revised its program to satisfy the conditions of the interim approval; however, the effective date of the revisions was made contingent upon EPA approving the changes under both 40 CFR part 70 and 40 CFR part 52. On September 5, 2001, the District revised the rules again in order to make the effective date of the rule changes contingent solely upon EPA approval under part 70. EPA is proposing to approve the operating permit program contingent upon Pinal submitting the rules that were adopted on September 5, 2001 as a revision to its part 70 program.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by October 22, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of Pinal's submittal and other supporting documentation relevant to this action during normal business hours at the Air Division of EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted title V program at the following location: Pinal County Air Quality Control District, Building F, 31 North Pinal Street, Florence, Arizona 85232.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1252 or *vagenas.ginger@epa.gov.*

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?

What is EPA's proposed action?

What are the program changes that EPA is approving?

What is the effect of this proposed action?

I. What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve compliance by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the national ambient air quality standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

II. What Is EPA's Proposed Action?

Because the Pinal operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval to the program in a rulemaking published on October 30, 1996 (61 FR 55910). The interim approval notice described the conditions that had to be met in order for the Pinal program to receive full approval. This **Federal Register** notice describes the changes that have been made to the Pinal operating permit program to correct conditions for full approval.

EPA is proposing full approval of the operating permits program submitted by Pinal based on the revisions adopted as of September 5, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's October 30, 1996 rulemaking. *See* 61 FR 55910. In addition, EPA is proposing to approve, as a title V operating permit program revision, additional changes to the rules. The interim approval issues, Pinal's corrections, and the additional changes are described below under the section entitled ''What are the program changes that EPA is approving?''

III. What Are the Program Changes That EPA Is Approving?

A. Corrections to Interim Approval Issues

In its October 30, 1996 rulemaking, EPA made full approval of Pinal's operating permit program contingent upon the correction a number of interim approval issues. Each issue, along with Pinal's correction, is described below.

1. Rule deficiency: Because the phrase ''including any fugitive emissions of any such pollutants'' in the version of the rule in Pinal's approved part 70 program could be read to modify only the 25 ton per year threshold, PCR Sec. 1–3–140(79)(b)(i) (the definition of ''major source'') did not clearly require that fugitive emissions of HAPs be included when determining a source's potential to emit. In order to correct the deficiency, the definition needed to be revised so that it would be clear that fugitive emissions of hazardous air pollutants must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year HAP major source thresholds. *See* 40 CFR section 70.2.

Rule change: The rule has been revised to correct the deficiency. It now defines a major source under section 112 of the CAA to include, ''* * * for pollutants other than radionuclides, any stationary source that emits, or has the potential to emit, in the aggregate and including fugitive emissions, 10 tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the CAA, 25 tons per year of any combination of such hazardous air pollutants, or such lesser quantity as described in Chapter 7 of this Code.'' (Emphasis added.)

2. Rule deficiency: The major source definition in Pinal's original submittal was less inclusive than the definition in part 70 in that it did not require that certain sources count fugitive emissions towards major source thresholds. In order to correct this deficiency, EPA required that Pinal revise PCR Sec. 1–3–140(79)(c) to delete sections 79(c)(ii), (iii), and (iv) and to add sources that belong to a category regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category, to the list of sources that must include fugitive emissions when determining major source status as defined in section 302(j) of the Act. *See* 40 CFR section 70.2.

Rule change: The rule has been revised as required by EPA.

3. Rule deficiency: Pinal's title V program provided certain exemptions that are not allowed under part 70. In order to correct the problem, EPA required that Pinal revise PCR Sec. 3–1–040(C)(1) to require that the motor vehicles, agricultural vehicles, and fuel burning equipment that are exempt from permitting shall not be exempt if they are subject to any applicable requirements. *See* 40 CFR section 70.5(c).

Rule change: PCR 3–1–040(C) contains exemptions from the permitting requirements. It has been modified so that, while a general exemption for agricultural equipment used in normal farm operations exists, the exemption does not apply to ''equipment that would be classified as a source that would require a permit under title V of the Clean Air Act (1990), or would be subject to a standard under 40 CFR Parts 60 or 61, or any other applicable requirement.'' This language is consistent with what other Arizona agencies did in their original submittals and we found to be fully approvable. The rule no longer provides an exemption for motor vehicles or fuel burning equipment.

4. Rule deficiency: Pinal's originally submitted program contained flaws in its provisions regarding the timing of the submission of permit applications. In order to correct the deficiencies, EPA required that PCR Sec. 3–1–045(F)(1) be revised to require sources requiring Class A (title V) permits to submit a permit application no later than 12 months after the date the Administrator approves the District program. In addition, Pinal was required to revise PCR Sec. 3–1–050(C) to include an application deadline for existing sources that become subject to the requirement to obtain a Class A permit after the initial phase-in of the program. This application deadline must be 12 months from when the source becomes subject to the program (meets Class A permit applicability criteria). *See* 40 CFR section 70.5(a)(1)(i).

Rule change: The district has corrected these deficiencies in the following manner. PCR 3–1–045(F)(1) now requires that sources in existence on November 3, 1993 not holding valid permits to operate or installation permits must submit an application within 180 days of receipt of notice from the Control Officer that a permit is required or within 12 months of becoming subject to the Class A permitting requirements, whichever is earlier. PCR3–1–050(C)(2) now specifies that a timely application for an existing source that is not initially required to obtain a title V permit but becomes subject at some later time to be one that is submitted within 12 months after the source becomes subject to title V.

5. Rule deficiency: Section 70.6(a)(8) requires that title V permits contain a provision that ''no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.'' PCR Sec. 3–1–081(A)(10) included this exact provision but also included a sentence that negated this provision. EPA required that Pinal either delete or revise the negating sentence to make the rule consistent with part 70. *See* 40 CFR section 70.6(a)(8).

Rule change: The negating sentence has been deleted from Pinal's rule.

6. Rule deficiency: Section 70.4(b)(12) provides that sources are allowed to make changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit. Specifically, section 70.4(b)(12)(iii) provides that if a permit applicant requests it, the permitting authority shall issue a permit allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap, established in the permit independent of otherwise applicable requirements. PCR Sec 3–1–081(A)(14) provided for such permit conditions without excluding modifications under title I of the Act and changes that do not exceed the emissions allowable under the permit. Pinal was required to revise PCR Sec. 3–1–081(A)(14) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. In addition, this provision needed to be revised to require that the permit terms and conditions provide for notice that conforms to section 3–2–180(D) and (E) and that describes how the increases and decreases in emissions will comply with the terms and conditions of the permit. *See* 40 CFR section 70.4(b)(12).

Rule changes: PCR 3–1–081(A)(14)(d) now specifies that permits that contain terms and conditions allowing for the trading of emissions for the purpose of complying with a federally enforceable emission cap established independent of otherwise applicable requirements ''shall provide for notice that conforms with section 3–2–180(D) and (E) and describes how the increases and decreases in emissions will comply with the terms and conditions of the permit, as per 40 CFR Chapter 1, Part 70, section

70.4(b)(12).'' PCR 3–1–081(A)(14)(e) requires that ''changes made under this subparagraph shall not include modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit.''

7. Rule deficiency: In order to ensure that the requirement to obtain a title V permit is enforceable, Pinal was required to revise PCR Sec. 3–4–420 to provide that a conditional order that allows a source to vary from the requirement to obtain a Class A permit may not be granted to any source that meets the Class A permit applicability criteria pursuant to PCR Sec. 3–1–040.

Rule change: 3–4–420(A) disqualifies a Class A permit holder from eligibility for a conditional order and provides that a conditional order cannot shield a Class B (non-title V) permit holder from an obligation to apply for a title V permit. Section 3–4–420(B) only allows conditional orders to be issued to Class B permit holders. Therefore, unpermitted sources, Class A sources, and anyone holding a Class B permit that is required to obtain a Class A permit cannot be covered by a conditional order.

8. Rule deficiency: Pinal's original title V program submittal allowed a source to operate within the limitations set forth in its general permit application until the District took action on the application. This is inconsistent with part 70. In order to correct this deficiency, Pinal was required to revise PCR Sec. 3–5–490(C) to provide that when an existing source that files a timely and complete application seeking coverage under a general permit either as a renewal of authorization under the general permit or as an alternative to renewing an individual part 70 permit, the source must continue to comply with the terms and conditions of the permit under which it is operating, even if that permit expires, until the District issues or denies the authorization to operate under the general permit. *See* 40 CFR section 70.4.(b)(10).

Rule change: PCR Sec. 3–5–490(C)(1) now requires that ''an existing source that has filed a timely and complete application seeking coverage under a general permit, either as a renewal of authorization under the general permit or as an alternative to renewing an individual permit shall continue to comply with the terms and conditions of the permit under which it is operating, even if that permit expires, until the Control Officer issues or denies the authorization to operate under the general permit.''

9. Rule deficiency: Pinal's title V program allowed a source seeking coverage under a general permit as an alternative to renewing its existing permit to operate under the terms of the general permit even when coverage had been denied. To correct this problem, EPA required that Pinal revise PCR Sec. 3–5–490(C) to require that if an existing source seeking coverage under a general permit as an alternative to renewing an individual permit is denied coverage, the source must continue to comply with the terms and conditions of its individual source permit. In addition, Pinal was required to revise Sec. 3–5–490(C) to clarify that, notwithstanding the 180-day permit application deadline set by the District in its notification to the source, a source that was denied coverage under the general permit may not operate after the date that its individual permit expires unless it has submitted a timely and complete application to renew that individual permit in accordance with PCR Sec. 3–1–050(C)(2). *See* 40 CFR sections 70.7(d) and 70.4(b)(10).

Rule changes: PCR Sec. 3–5–490(C)(2) now requires that ''[i]f the application from an existing source seeking coverage as an alternative to renewing an individual permit is denied, the source shall continue to comply with the terms and conditions of its individual source permit.'' PCR Sec. 3–5–490(C)(2) specifies that a source that was denied coverage under a general permit may continue to operate under its individual permit provided it has filed a timely and complete application prior to the expiration of the source's individual permit.

10. Rule deficiency: In order to resolve some internal inconsistencies in Pinal's regulations PCR Sec. 3–5–550(C) needed to be revised to clarify that if the Control Officer revokes a source's authorization to operate under a general permit and the source submits a timely and complete application for an individual source permit as required by the Control Officer, it may continue to operate under the terms of the general permit until the District issues or denies the individual source permit.

Rule change: PCR Sec. 3–5–550(C) has been revised to correct the deficiency as follows: ''A source authorized to operate under a general permit may operate under the terms of the general permit until the earlier date of expiration of the general permit or 180 days after receipt of the notice of termination of any general permit. If the operator submits a timely and complete application for an individual permit in accordance with sections 3–1–050, 3–1–055, and 3–5–490, while still authorized to operate under the terms of its general permit, the applicant may continue to operate under authority of the underlying general permit until the Control Officer issues or denies the individual permit.''

B. Other Changes

EPA is also taking action to approve, as a title V operating permit program revision, additional program changes made by Pinal since the interim approval was granted. Some of the rules Pinal has submitted for EPA approval incorporate changes other than those described above. We have evaluated the additional changes and find that they are consistent with part 70 and are therefore including those changes in our proposed approval. These changes are described below:

1. PCR 3–1–040. Paragraph B.2., which spells out applicability criteria for non-title V permits, has been modified. Part 70 does not address permit requirements for non-title V sources, and so this change is not relevant to the approval of this rule pursuant to part 70. A new paragraph D. was also added to the rule. This new provision specifies that construction or reconstruction of a major source of HAP renders the source subject to MACT standards promulgated by EPA, or, where no standard has been promulgated, to a case-by-case MACT determination pursuant to 40 CFR sections 63.40 through 63.44. This change is consistent with part 70 and is therefore approvable.

2. PCR 3–1–045. Paragraph E. of the version of the rule originally approved by EPA has been deleted. This paragraph specified the fee schedule that sources would be subject to prior to EPA's approval of the District's title V program and is no longer necessary.

3. PCR 3–1–050. Paragraph C of this rule, which specifies the criteria an application must meet in order to be considered timely, has been changed to eliminate a reference to a Rule 3–1–047. Whereas the originally approved version of the rule provided that, ''[u]nless otherwise required by 3–1–045 or 3–1–047, a timely application is * * *'' the modified provision references only 3–1–045. Because 3–1–047 was never an approved element of the part 70 program and was not relied upon to meet part 70 requirements, the elimination of this reference has no effect on the approvability of this rule pursuant to part 70.

4. PCR 3–1–081. Consistent with part 70, paragraph B of this rule provides that all conditions of a permit, except those that are specifically designated as not federally enforceable, are enforceable by the Administrator and citizens under the Clean Air Act. Paragraph B.2. has been modified to specify that any provision that a source

elects to make federally enforceable pursuant to the District's synthetic minor permitting rule may not be designated as non-federally enforceable. This change is consistent with part 70 and is therefore approvable.

IV. What Is the Effect of This Proposed Action?

Pinal previously adopted rule revisions that addressed the issues identified in EPA's interim approval and described above. On September 5, 2001, the District adopted a revision to the effective date of those rules. EPA action granting full approval to Pinal's title V program must be completed by December 1, 2001 to avoid the imposition of the federal operating permit program, part 71. In order to provide EPA adequate time to undertake notice and comment rulemaking on the District's title V program, Pinal submitted a copy of its revised rules to EPA on August 6, 2001. The District requested that we propose action on those rules prior to the formal submittal of the District's changes regarding the effective date of the rules. The rules we are proposing for approval today are those the District adopted on September 5, 2001. Table 1 lists the rules addressed by this proposal with the dates that they were adopted and when we anticipate they will be submitted by Pinal.

TABLE 1

Rule#	Rule title	Adoption date	Anticipated submittal date
PCR 1–3–140 (79)	Definitions (definition of stationary source only)	9/5/01	9/30/01
PCR 3–1–040	Applicability and Classes of Permits	9/5/01	9/30/01
PCR 3–1–045	Transition from Installation and Operating Permit Program	9/5/01	9/30/01
PCR 3–1–050	Permit Application Requirements	9/5/01	9/30/01
PCR 3–1–081	Permit Conditions	9/5/01	9/30/01
PCR 3–4–420	Standards of Conditional Orders	9/5/01	9/30/01
PCR 3–5–490	Application for Coverage under a General Permit	9/5/01	9/30/01
PCR 3–5–550	Revocations of Authority to Operate under a General Permit	9/5/01	9/30/01

Should Pinal submit these rules to EPA as a title V program revision in the form in which they were adopted on September 5, 2001, Pinal will have fulfilled the conditions of the interim approval granted on October 30, 1996 [61 FR 55910]. EPA is therefore proposing full approval of the Pinal operating permit program contingent on the submittal of the rules listed above.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Pinal submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by October 22, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will 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, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or 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 significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. 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.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. 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 State operating permit

program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program 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.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 5, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

[FR Doc. 01–23483 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 01–174; FCC 01–218]

2000 Biennial Regulatory Review—Requirements Governing the NECA Board of Directors and Requirements for the Computation of Average Schedule Company Payments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; comments requested.

SUMMARY: In this document the Commission is seeking comment on certain of our rules pertaining to the National Exchange Carrier Association (NECA). In particular, we propose to eliminate the annual election requirements for NECA's board of directors. We also propose to streamline the average schedule formula process. Our goal in this proceeding is to eliminate rules that may no longer be necessary in the public interest, reduce unnecessary regulatory burdens on the industry, including small entities, and update our rules and processes with measures that are more appropriate in today's marketplace.

DATES: Written comments by the public are due on or before October 22, 2001, reply comments are due on or before November 5, 2001.

ADDRESSES: Federal Communications Commission 445–12th Street, SW, TW–A325, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark Stone, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0816 or Andrew Mulitz, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0827.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (NPRM), CC Docket No. 01–174, FCC 01–218, adopted July 31, 2001 and released August 31, 2001. In this NPRM, we seek comment on certain of our rules pertaining to the NECA. In 1983, the Commission adopted rules providing for an exchange carrier association to administer access tariffs and to establish and operate a high cost fund. Beginning in 1984, all local exchange carriers participated in a mandatory common line tariff, and most participated in a traffic sensitive tariff. For each of these tariffs, the exchange carrier association, NECA, operates pooling mechanisms to collect and distribute revenues among its participating carriers. At that time, the Commission adopted rules relating to the governance and functioning of NECA. As part of our 2000 biennial regulatory review process, we now re-examine these rules in light of today's marketplace. In particular, we propose to eliminate the annual election requirements for NECA's board of directors under § 69.602 and seek comment on whether other measures, such as staggered terms and term limits are necessary. We also propose to streamline the average schedule formula process under § 69.606. Our goal in this proceeding is to eliminate rules that may no longer be necessary in the public interest, reduce unnecessary regulatory burdens on the industry, including small entities, and update our rules and processes with measures that are more appropriate in today's marketplace. We seek comment on the extent to which these proposals will achieve this goal.

I. Board of Directors

Today, all ILECs, regardless of size, are members of NECA. Membership in NECA is grouped into three divisions or subsets: Bell Operating Companies (Subset 1); other carriers with annual revenues of $40 million or more (Subset 2); and all remaining carriers (Subset 3). Each of the subsets is represented on NECA's 15-member board of directors, which governs the Association. The 15-member board is composed of 10 ILEC representatives—two from Subset 1, two from Subset 2, and six from Subset 3—and five directors from outside the telecommunications industry representing all three subsets (outside directors). Each subset nominates and elects its own representatives and outside directors are elected by the entire NECA membership. As required under our rules, all board members are selected through an annual election and serve a term of one year.

NECA proposes that the Commission revise §§ 69.602(e) and 69.602(f) to provide for periodic elections for the board of directors, instead of annual elections. In addition, NECA proposes eliminating § 69.602(i), which specifies that directors shall serve one-year terms. We seek comment on NECA's proposals and on the specific benefits that changes to the annual election requirement and one-year term limit for board members would provide to ILEC members. Commenters should discuss whether the elimination of the annual election requirements would have any impact on adequate representation of the member companies and should also address the appropriate length of the board members' term and whether term limits should be specified in our rules. We note that under our rules, we have adopted a three-year term for directors that serve on the board of USAC, NECA's independent subsidiary. Would a similar term appointment be appropriate for NECA board members? We also seek comment on alternative proposals that may be appropriate to consider at this time. For instance, would staggered terms, which would provide that the entire board would not run for election at the same time, be appropriate, and if so, does this alternative sufficiently address the cost burdens that NECA identified as being associated with annual elections?

II. Average Schedule Formulas

A. NECA's Historical Role and the Changing Regulatory Environment

NECA was established, and continues today, to develop and file interstate access tariffs and to administer interstate access revenue pools. In the initial years following the Commission's adoption of uniform access charge rules, all ILECs were subject to rate-of-return regulation, and all ILECs were required to participate in NECA's access tariff and common line pooling process. Under our access charge rules, ILECs were compensated either on the basis of their costs or under average schedules, which were permitted for some carriers as a way to avoid imposing the burdens and costs associated with performing cost separations studies needed to determine access charges. From a regulatory perspective, the access charge model sought to ensure that ILECs charged customers an amount that covered their interstate costs, assessed charges through cost-causative rate

elements that reflected the structure of the access network, and provided a reasonable return on their interstate investment.

Over the years, fundamental changes have occurred in the regulatory regime that governs access charges and tariff obligations, including the mandatory requirement that all ILECs participate in NECA's access tariff and common line pooling process. While allowing rate-of-return regulation to continue for some ILECs, our regulatory model governing access charges changed significantly in 1991, particularly with the adoption of price caps for the largest ILECs. The 1996 Act called for further reforms. Today, our regulatory concern is focused on providing sufficient incentives for ILECs to become more efficient, eliminating implicit subsidies, and aligning access charge rate structure components with cost-causation principles. Today, none of the largest ILECs participates in NECA's access tariff and pooling process. These ILECs instead charge access rates pursuant to the *CALLS Order,* FR 65 57739 (September, 26, 2000). Many ILECs that remain subject to rate-of-return rules have also elected not to participate in NECA's tariff and pooling process, but file their own access tariffs. Moreover, the Commission has sought comment on measures to reform the current access charge policies and adopt optional incentive regulation for rate-of-return carriers, as detailed in a proposal submitted by the Multi-Association Group (MAG Plan).

Our tariff requirements have changed as well. For all ILECs that file tariffs, we have engaged in continuous efforts to review, revise, and update rules to make our processes more streamlined. Today, ILEC tariffs are no longer subject to the filing and approval requirements that were in place in 1983, but are subject to abbreviated review and effective date periods of either 7 or 15 days. In addition, as the Federal-State Joint Board on Separations continues its efforts to bring about comprehensive reform of the jurisdictional separations rules, the Commission has simplified the separations process by adopting a five-year interim freeze of the Part 36 category relationships and allocation factors for price cap carriers and a five-year interim freeze of allocation factors for rate-of-return carriers. The separations freeze will provide substantial regulatory relief to all ILECs that must separate costs between interstate and intrastate jurisdictions until separations reform is completed.

Our reforms and various other streamlining measures have generally applied to price cap LECs and have been aimed at providing the ILECs with greater flexibility to set interstate access rates and to enable ILECs to compete more efficiently as competition develops, gradually replacing regulation with competition as the primary means of setting prices. Further streamlining and elimination of regulations will occur as competitive market forces emerge.

NECA's joint tariff and settlement process, however, has not been subject to the reform and streamlining measures that have taken place for the access charge and tariff requirements of the largest ILECs and other ILECs that file outside the NECA process. Currently, approximately 1,240 ILECs, consisting of about 700 cost companies and about 540 average schedule companies, continue to participate in NECA's tariff and settlement process. We recognize that over the years NECA's pooling process has provided ILECs with an efficient and streamlined alternative to individual tariff filings, and continues today to provide benefits to participating ILECs, particularly the small and rural ILECs. We believe, however, that review of our rules and the long-standing practices surrounding NECA's tariff and settlement process for average schedule companies is appropriate and necessary at this time. Our goal is to eliminate unnecessary and complex requirements affecting carriers that may no longer be in the public interest. As discussed further, our review of NECA's tariff and settlement process in this proceeding examines whether certain rules and practices applicable to the average schedule process continue to be necessary, and whether there may be alternative measures that are more appropriate in today's environment.

B. NECA's Current Tariff Development and Settlement Process

Under NECA's current access tariff and settlement process, NECA collects data from participating ILECs to develop the interstate access tariff rates. These tariff rates reflect the actual interstate costs of cost companies and the estimated interstate costs of the average schedule companies. Data collected from cost companies include detailed cost studies that determine jurisdictional separations and cost allocations. Data collected from average schedule companies do not include such detailed cost studies. Rather, NECA uses interstate factors derived from the cost companies to estimate interstate costs for average schedule companies. ILECs participating in NECA's access tariffs charge interexchange carriers (IXCs) for access at the rates set out in NECA's tariff. NECA pools the interstate access revenues collected by participating ILECs, and, through the settlement process, distributes compensation among pool members. Cost companies receive compensation for the use of their facilities in originating and terminating interstate common carrier communications services on the basis of their actual interstate costs, including a return on investment. Average schedule companies receive compensation for the use of their facilities on the basis of average schedules formulas, which are developed by NECA and established, in part, by using estimated costs derived from cost companies.

Resources devoted both by NECA and by the Commission to average schedule formulas may be disproportionate, particularly given the fact that average schedule companies' billed access charges and settlement revenues represent a relatively small component of the NECA pools. Moreover, NECA's current process for developing average schedule formulas may be unnecessarily complex in light of our extensive reform and simplification efforts for the largest ILECs and for ILECs that file outside the NECA process. We find it is appropriate to examine the requirements and practices pertaining to NECA's tariff and settlement process for average schedule companies and seek comment on various reform and simplification measures. As discussed further, we seek comment on both the manner in which NECA develops its average schedule formulas, and consequently our review and approval process of NECA's proposed formula modifications.

(1) Computation of Average Schedule Company Payments Through Average Schedule Formulas

The rule governing the development of average schedule formulas is broadly stated in § 69.606(a). NECA must develop formulas designed ''to produce disbursements to an average schedule company that simulate the disbursements that would be received * * * by a [cost] company that is representative of average schedule companies.'' The rule provides NECA with flexibility on how to develop these formulas. NECA has chosen to implement the rule through a process that involves extensive data collection and detailed analysis of cost company data, statistical sampling of average schedule company data, and regression and related statistical estimations. Currently, NECA develops ten separate average schedule formulas for use in its access tariffs and two average schedule

formulas for obtaining support from the Universal Service Fund (USF).

NECA's average schedule formula development process includes the following steps: (1) Collection of cost accounting data, including jurisdictional separations cost data and demand data (e.g., access line counts, number of exchanges, access minutes) from a sample of cost companies; (2) determination of jurisdictional cost relationships for the sample cost companies; (3) collection of certain accounting cost data and demand data from a sample of average schedule companies; (4) application of the cost relationships determined in Step 2 to the sample average schedule companies to estimate jurisdictional costs for the sample average schedule companies; (5) development of mathematical models using Steps 3 and 4 to determine estimated interstate costs for the sample average schedule companies; (6) use of statistical regression techniques to develop formulas that relate estimated interstate costs of the average schedule company to various commonly-used demand units (e.g., access lines per exchange); (7) development of settlement formulas using Step 5; and (8) adjustment for projected changes in costs and demand.

The Commission does not mandate the formula development process, but rather it is the process that NECA has chosen to use to meet the requirements of § 69.606(a) of our rules. Each year NECA engages in this process to determine whether to propose revisions to the current average schedule formulas. Consequently, each year but one NECA has filed proposed revisions with the Commission that consist of complicated, detailed, and extensive formula computations. This process is costly for NECA, interested parties that participate in the review of NECA's proposals, and the Commission. The current process clearly is not commensurate with our access charge reforms and streamlining measures for the largest ILECs, and we believe that a more streamlined approach is warranted.

Initially, we note that the premise of the entire rule governing the average schedule process is rate-of-return regulation. The Commission has long abandoned rate-of-return regulation for incentive regulation for the largest ILECs and now has under consideration the MAG Plan for non-price cap ILECs, which proposes to provide these carriers with the option to elect incentive regulation and thereby leave rate-of-return and average schedule regulatory models altogether. In light of such reform effort, we seek comment on whether and how § 69.606(a) should be modified. Our long-term goal is to get out of the business of rate regulation of ILECs where competitive market forces make regulatory oversight unnecessary. Recognizing, however, that transition will occur over a period of time, and that for the foreseeable future, certain carriers may remain average-schedule carriers, how can we modify the existing rule to better reflect today's marketplace? In particular, as long as some companies remain on average schedules, is there a simpler but fair way to determine payments for these companies? Should the Commission continue to require that disbursements simulate the disbursements that would be received by a cost company representative of the average schedule companies? Should the similar disbursement language in § 69.606(a) be eliminated or revised to reflect some measure other than cost, such as, inflation, line growth, or network utilization? What are the benefits of such modifications?

We seek comment on several options to streamline the manner in which the average schedule formulas are developed by NECA. The Commission recently froze for five years the separations allocation factors for all carriers and gave rate-of-return carriers the option of electing to freeze their separations category relationships as well. In light of this freeze, the first step of NECA's current formula development process already will be streamlined, because NECA no longer will need to determine on a yearly basis the separations allocation factors from a sample of cost companies. One measure that would further simplify the formula development process would be to utilize the cost relationships from a sample of cost companies for a baseline year in developing formulas for average schedule companies in future years. The net effect of the newly adopted separations freeze and this proposal would be to eliminate the need to examine on a yearly basis the jurisdictional cost relationships for the sample of cost companies; the relationships and ratios derived from the baseline year would be used to develop formulas for average schedule company payments in future years. This would eliminate much of the first and second step of NECA's current process to develop average schedule formulas, as previously described.

A second option would be for NECA to use the current approved average schedule formula structures in developing specific formulas for payments to average schedule companies in future years. This option would further streamline the formula development process by making it unnecessary for NECA to develop mathematical models to estimate the costs of average schedule companies, effectively eliminating the fifth step of the process currently used by NECA.

A third option would be for NECA to utilize the current formula structures and coefficients in developing formulas in future years for payments to average schedule companies. This option would significantly simplify NECA's current formula development process, essentially placing a freeze on the current formula methodologies. As a result, NECA would no longer need to conduct regression analysis to develop formulas that relate company costs to commonly-used demand units, thereby effectively eliminating the sixth step of the process currently used by NECA.

If formula structures or formula coefficients were frozen in some fashion, there may be a need periodically to make adjustments to the existing formulas to reflect more global changes in the marketplace. If formulas were frozen in some fashion, would it be appropriate to require, or permit, NECA periodically to re-evaluate the formulas to take into account general trends in inflation, cost, demand growth, or network underutilization? If so, what specific time frame would be appropriate for re-evaluation of aspects of the current formulas?

We seek comments on these proposed options and other alternatives. Will relevant trends in demand growth and inflation provide a sufficient basis for reasonable changes in payment amounts? We note that any carrier that believes the average schedule formulas do not produce disbursements appropriate to its circumstances is free, under our existing rules, to settle with NECA based on its actual costs. Should average schedule company productivity factors be considered? Could the proposed options be implemented in conjunction with access reform for rate-of-return carriers? What implications do the proposed options have on interstate access charges in rural and small exchanges? How best can the Commission be assured that average schedule formulas result in appropriate interstate rates in areas where marketplace competition has not developed? Is a different method required if competition exists in a given area? If so, what should that method be?

(2) Commission Review and Approval Cycle

Pursuant to § 69.606(a), payments to average schedule companies are made ''in accordance with a formula approved

or modified by the Commission.'' As required under § 69.606(b), NECA either files its proposed revisions for average schedule formulas on or before December 31 of each year, or certifies that no revisions are necessary. Once received, the Commission places NECA's filing on public notice and seeks comment from interested parties. Generally, the Commission's review of NECA's annual average schedule formula filing is complete and an order is issued approving or modifying NECA's proposed formulas before the effective date of NECA's annual access tariffs on July 1. NECA's annual tariffs are based, in part, on the average schedule formulas approved by the Commission.

Over the years, the Commission has undertaken a careful review of NECA's proposed formula revisions, which to date have involved extensive and complex cost studies, regression models, and other statistical measures and estimation theory. We seek to adopt a more streamlined and flexible procedural process for average schedule companies. In particular, we believe that if the formula development process is streamlined, a concomitant streamlining of the review process should follow. In addition, we note that the review periods today are much shorter for most Commission tariff filings. For example, pursuant to our rules, NECA's annual joint access tariff is filed on June 15 with an effective date of July 1, a fifteen-day review cycle.

NECA has proposed that the Commission consolidate its review of NECA's proposed revisions to the average schedule formulas with its review of NECA's access tariff filing. We seek comment on the feasibility of consolidating these two review periods, which we believe would significantly reduce regulatory burdens on NECA. We note that the current tariff filings are subject to a 7 or 15 day review process. We ask parties to comment on whether a 7 or 15 day review period will adequately accommodate both reviews of the tariff filing and the revised average schedule formulas. What benefits would be obtained through a shortened review process of the average schedule formulas? Will the Commission or interested parties have a reasonable opportunity to address issues raised by proposed formula revisions? Do the benefits of a shortened review period outweigh any burdens on the Commission and interested parties to review, comment on, and, if necessary, modify the formulas in this shortened time period? Commenters should also address whether the length of the formula review process should depend on whether NECA simplifies its process for formula development. If the average schedule formula development process were streamlined as set forth in one of the options proposed previously, a more abbreviated review period could be appropriate. We ask parties to comment on whether this combined filing process would permit interested parties to review and comment on the proposed formulas. We also ask parties to comment on whether it is appropriate for us to limit our review to the tariff filing only. What impact would our lack of oversight of the average schedule formulas have on customers of interstate access (namely, long distance companies), and, ultimately, long distance rates, particularly in areas where an average schedule company is not subject to competition from alternative providers of interstate access?

Finally, we note our concern that as we seek to further simplify the current access charge process surrounding average schedule companies, we must also seek to encourage investment and deployment of new services in areas served by average schedule companies. In addition, particularly in areas where there are no competitive alternative providers of exchange access, we remain concerned that consumers are not burdened with higher long distance rates because access charges are overstated. We seek comment on rule changes that will best address these concerns, while minimizing regulatory burdens, providing incentives for investments and new services, and protecting consumers.

Procedural Issues

C. Ex Parte Presentations

This is a permit-but-disclose rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, if disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206.

D. Initial Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an RFA analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). In this Notice of Proposed Rulemaking, we seek comment on certain of our rules pertaining to the National Exchange Carrier Association (NECA), which operates pooling mechanisms to collect and distribute revenues among its participating carriers. In particular, we propose to eliminate the annual election requirements for NECA's board of directors under § 69.602 and seek comment on whether other measures, such as staggered terms and term limits are necessary. We also propose to streamline the average schedule formula process under § 69.609.

We certify, pursuant to RFA, that the proposed rules will not have a significant economic impact on a substantial number of small entities. NECA is a non-profit, quasi-governmental association created to administer the Commission's interstate access tariff and revenue distributions processes. Because the proposed rule amendments affect only NECA directly, we find that no substantial number of small entities are potentially affected by our action. In addition, any economic effect that might result is positive (de-regulatory) and not significant. The Commission will send a copy of this Notice of Proposed Rulemaking, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration, and it will be published in the **Federal Register**.

E. Comment Filing Procedures

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, Written comments by the public are due on or before October 22, 2001, reply comments are due on or before November 5, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full

name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings by paper must be sent to the Commission's Secretary: Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

Parties who choose to file by paper should also submit their comments on diskette. Diskettes should be submitted to: Ernestine Creech, Room 6 C–317, Accounting Safeguards Division, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. The required diskette copies of submissions should be on 3.5-inch diskettes formatted in an IBM compatible format using Word or compatible software. Each diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (CC Docket No. 01–174), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, parties who choose to file by paper must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554. Comments and reply comments will be available for public inspection during normal business hours in the FCC Reference Information Center, Courtyard Level, Suite CY–A257, 445 12th Street, SW, Washington, DC.

Ordering Clauses

Pursuant to the authority contained in sections 1, 4(i), 11, 201–205, 218–220, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C., 151, 154(i), 161, 201–205, 218–220, 254, and 403 this Notice of Proposed Rulemaking is hereby Adopted.

The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23495 Filed 9–19–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 090701F]

Fisheries of the Exclusive Economic Zone Off Alaska; King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS); request for written comments; notice of scoping meetings.

SUMMARY: NMFS announces its intent to prepare an EIS in accordance with the National Environmental Policy Act of 1969 (NEPA) for the Fishery Management Plan for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs (FMP). The North Pacific Fishery Management Council proposes to rationalize the BSAI crab fisheries through an Individual Fishing Quota (IFQ) Program, or a cooperative program. The scope of the EIS will be a programmatic review of the FMP, examining all activities addressing the conduct of the BSAI crab fisheries authorized under the FMP, including components of proposed rationalization programs, and potential changes to the management of the fisheries under these programs.

NMFS will hold public scoping meetings and accept written comments to determine the issues of concern and the appropriate range of management alternatives to be addressed in the EIS.

DATES: Written comments will be accepted through November 16, 2001. A public scoping meeting will be held on Thursday, September 20, 2001, in Anchorage, AK. For dates and times of scoping meetings, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Written comments on issues and alternatives for the EIS should be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Comments may be sent via facsimile (fax) to 907–586–7557. NMFS will not accept comments by e-mail or the internet. For locations of the public scoping meetings, see **SUPPLEMENTARY INFORMATION.**

Written comments specifically addressing the Council's analysis of rationalization programs should be sent to the North Pacific Fishery Management Council, 605 West 4th Street, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, (907) 586–7228 or e-mail *gretchen.harrington@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the United States has exclusive fishery management authority over all living marine resources found within the exclusive economic zone (EEZ). The management of these marine resources, with the exception of marine mammals and birds, is vested in the Secretary of Commerce (Secretary). Eight Regional Fishery Management Councils prepare fishery management plans for approval and implementation by the Secretary. The North Pacific Fishery Management Council (Council) has the responsibility to prepare fishery management plans for the fishery resources that require conservation and management in the EEZ off Alaska.

NEPA requires preparation of an EIS for major Federal actions significantly impacting the quality of the human environment. Regulations implementing NEPA at 40 CFR 1502.4(b) state:

> Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decision making.

The FMP was approved by the Secretary on June 2, 1989 (54 FR 29080). The Secretary approved a revised and updated FMP on March 9, 1999 (64 FR 11390). The FMP establishes a State/Federal cooperative management regime that defers many aspects of crab

management to the State of Alaska (State), with Federal oversight. The FMP identifies specific aspects of crab management that remain under the jurisdiction of the Federal government, such as limited access.

The FMP is a framework plan for the management measures deferred to the State. For these measures, the framework in the FMP establishes policy objectives and criteria instead of selecting specific management measures. This allows for long-term management of the fishery without frequent amendments to the FMP.

FMP amendments are required for changes to the management measures under Federal jurisdiction and for changes to the framework plan for management measures deferred to the State. FMP amendments are also required to keep the FMP in compliance with the requirements of the Magnuson-Stevens Act.

NMFS has identified the need to prepare an EIS to take a programmatic look at the FMP and possible alternatives to the FMP in light of Council consideration of a program to rationalize the BSAI crab fisheries. NMFS recognizes that the rationalization programs under consideration will result in substantial changes to many of the current management measures and possibly the framework of the FMP and that these programmatic changes may significantly affect the environment. NMFS views this as an opportune time to analyze these potential changes as well as analyze alternative ways to manage the BSAI crab fisheries.

The proposed action to be addressed in the EIS is the rationalization of the BSAI crab fisheries. Given this proposed action, the scope of the EIS will be a programmatic review of the FMP, examining all activities addressing the conduct of the BSAI crab fisheries authorized under the FMP, including components of proposed rationalization programs and potential changes to the management of the fisheries under these programs. The scope of the analysis is intended to be broad enough for the Council and NMFS to make an informed decision on a rationalization program and to undertake further analysis of other changes to the FMP as necessary with the implementation of these programs.

NMFS is seeking information from the public through the scoping process on the range of alternatives to be analyzed and on the environmental, social, and economic issues to be considered in the analysis.

Alternatives

NMFS will evaluate a range of alternative FMPs for managing the BSAI crab fisheries. Alternatives analyzed in the EIS may include those identified here, plus additional alternatives developed through the public scoping process and through working with the Council and the State. Each alternative would constitute a complete FMP, that would include an approach for every aspect needed in an FMP.

The potential alternatives already identified for the EIS include: (1) The existing FMP (no action) and (2) an FMP as modified by a rationalization program (IFQ or cooperatives).

The Council will recommend the specific alternative for the rationalization program in early 2002. In June 2001, the Council adopted a suite of alternatives, elements, and options for an analysis of potential rationalization programs for the BSAI crab fisheries. These alternatives, elements, and options were developed through the Council's rationalization committee, Advisory Panel meetings, and Council meetings. Congressional action would be required to provide statute authority to implement the alternatives under Council consideration.

Public Involvement

Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to the proposed action. A principal objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing between those alternatives and selecting a preferred alternative.

NMFS is seeking written public comments on the scope of issues that should be addressed in the EIS and alternatives that should be considered for management of the BSAI crab fisheries.

Public comments on specific aspects of the rationalization programs should be submitted to the Council (see **ADDRESSES**). The public will also be able to provide oral and written comments through the Council process and at Council meetings. Upon completion, the Council will make a draft analysis of these proposed programs available for public review and comment. Copies of the analysis can be requested from the Council (see **ADDRESSES**).

Dates, Times, and Locations for Public Information Meetings

The public is invited to assist NMFS in developing the scope of alternatives and issues to be analyzed for the EIS. Comments will be accepted in writing at the meetings and at the NMFS address (see **ADDRESSES**).

One public scoping meeting will be held on Thursday, September 20, 2001, from 2 to 4 p.m., at the Hilton Hotel, 500 West 3rd Street, Anchorage, Alaska, in conjunction with the Council's Crab Plan Team meeting.

Two additional scoping meetings will be held in Seattle, Washington: One, on Monday, October 1, 2001, from 2:30 to 4:30 p.m., at the Leif Erikson Hall, 2245 N.W. 57th Street, in conjunction with the Annual Bering Sea/ Aleutian Islands Crab Industry Meeting; and the second on Thursday, October 4, 2001, from 7 to 9 p.m., at the Sea-Tac airport Doubletree, 18740 International Blvd., in conjunction with the October Council meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gretchen Harrington, NMFS, (see **ADDRESSES**), (907) 586–7228, at least 5 days prior to the meeting date.

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

Dated: September 14, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23470 Filed 9–17–01; 2:29 pm]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 183
Thursday, September 20, 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

Forest Service

RIN 0596–AB73

National Environmental Policy Act Documentation Needed for Certain Special Use Authorizations

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed interim directive; request for public comment.

SUMMARY: The Forest Service proposes to issue an interim directive to guide its employees in complying with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations for issuance of a special use authorization involving administrative changes where no changes are proposed in authorized activities or facilities. The interim directive would also clarify the definition of extraordinary circumstances. The intended effect is to facilitate consistent interpretation and application of NEPA requirements, CEQ regulations, and related agency policy by employees and to reduce the paperwork and delays that have resulted in a large backlog of unprocessed applications. Public comment is invited and will be considered in development of the final interim directive.

DATES: Comments must be received in writing by November 19, 2001.

ADDRESSES: Send written comments to Director, Lands Staff, 4th Floor-South, Mail Stop 1104, Sidney R. Yates Federal Building, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, or send electronic mail to *landsidce@fs.fed.us.* If electronic mail is sent, the public is requested not to send duplicate written comments via regular mail. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received on this proposed interim directive in the Office of the Director, Lands Staff, 4th Floor-South, Sidney R. Yates Federal Building, 14th Street and Independence Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m. on business days. Those wishing to inspect comments are encouraged to call ahead to (202) 205–1248 or (202) 205–0895 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Randy Karstaedt, Lands Staff, (202) 205–1256; Kenneth Karkula, Recreation, Heritage, and Wilderness Resources Staff, (202) 205–1426; or Rhey Solomon, Ecosystem Management Coordination Staff, (202) 205–0939.

SUPPLEMENTARY INFORMATION:

Special Uses

The Forest Service controls the occupancy and use of National Forest System lands through issuance of a special use authorization, such as a permit, lease, or easement. The evaluation of a proposed occupancy and use is subject to the National Environmental Policy Act of 1969 (NEPA); issuance of the subsequent special use authorization is the means by which the NEPA decision is implemented. After approval of a use, the responsible official issues a special use authorization, such as a permit, lease, or easement, that provides the framework for a holder's use and occupancy of National Forest System lands and establishes conditions for issuance of a new special use authorization when authorized improvements change ownership and upon the termination of the current special use authorization.

In April 1997, the Forest Service completed a reengineering study of its special uses program to identify changes needed to manage the program in a more efficient and customer service-oriented manner. In 1998, the agency issued a final rule streamlining the special use application process and administration of special use authorizations at 36 CFR part 251, subpart B (63 FR 65940, November 30, 1998). The reengineering study found misunderstanding and inconsistency among agency employees in actions being taken to administratively change a current valid special use authorization, such as updating authorization rental fee clauses and incorporating new environmental requirements mandated by new laws and regulations. The study also revealed a large backlog of unprocessed special use applications involving a change of ownership of authorized improvements or the issuance of a new special use authorization upon the termination of the current special use authorization which, if issued, would result in no change in the authorized activities or facilities. The study concluded that a primary cause of this backlog is the inconsistent application and misinterpretation of agency policy found in Forest Service Handbook (FSH) 1909.15, Environmental Policy and Procedures Handbook, chapter 30, which addresses categorical exclusion from documentation in an environmental assessment (EA) or environmental impact statement (EIS). These inconsistencies and misinterpretations have resulted in higher administrative costs to the agency and delayed service to the customer.

The Council on Environmental Quality (CEQ) regulations (40 CFR part 1500) encourage agencies to reduce paperwork and delays in processing applications by categorically excluding from documentation in an EIS or EA certain types of proposed actions that do not individually or cumulatively have a significant effect on the human environment. Forest Service direction on actions that may be considered for categorical exclusion is contained in FSH 1909.15, chapter 30, sections 31.1b and 31.2.

In 1998, the Forest Service adopted an interim directive regarding categorical exclusions for certain ski area permit actions (63 FR 48170, September 9, 1998) to categorically exclude from documentation in an EA or EIS certain actions related to permit tenure or the change of ownership of authorized improvements when such actions are ministerial and no changes are proposed in the permitted activities or facilities. That interim directive implemented a provision of the Omnibus Parks and Public Lands Management Act of 1996 which provided that issuance of a ski area permit for activities authorized under a previous ski area permit does not constitute a major Federal action for the purposes of NEPA. In issuing that interim directive to its NEPA implementation handbook (FSH 1909.15, Environmental Policy and

Procedures Handbook), the Forest Service reviewed applicable statutory authority and regulations and concluded that a similar categorical exclusion should be provided for certain special use applications and authorizations. As suggested by the reengineering study, a record of EA's and resulting findings of no significant impact (FONSI's) for special uses has been collected, which shows that certain categories of actions involving special use authorizations generally have no significant effect on the human environment, supporting the Forest Service determination that the proposed changes to the categorical exclusions are appropriate and should be implemented.

Because the agency plans to propose additional revisions to this handbook within the next few years, the agency has concluded that these proposed categorical exclusions for certain special use authorization actions should be issued as an interim directive. Upon completion of other revisions to this handbook, this interim directive will be incorporated into an amendment at that time.

Accordingly, the Forest Service proposes to revise its NEPA implementation handbook (FSH 1909.15) to classify the following special use authorizing actions as categorical exclusions: (1) Amendment of a special use authorization during its term, for purposes of initiating an administrative change; (2) changes in ownership of authorized improvements during the term of an existing special use authorization; and (3) issuance of a new special use authorization upon termination of an existing special use authorization. Use of these new categories would be appropriate only when the special use authorization involves no change in the nature or scope of the occupancy and use and no change in the effects on the environment. The proposed direction for the categorical exclusions would be included as paragraphs under sections 31.1b and 31.2. The intent of these proposed changes to categorically exclude certain special use authorization actions is not to avoid environmental analysis and documentation, but rather to recognize that administrative amendments to authorizations, changes in ownership of authorized improvements, and issuance of a new authorization upon the termination of an existing authorization have little to no individual or cumulative environmental effect on the ground. The proposed interim direction is set out at the end of this notice.

The agency proposes to add two new paragraphs 10 and 11 to section 31.1b, Categories Established by the Chief. The categories in this section identify proposed actions requiring no additional analysis or documentation in an EIS or EA and for which a project or case file and a decision memo are not required.

Proposed paragraph 10 would address situations that involve the amendment of an existing special use authorization when there would be no change to the scope or nature of the authorized occupancy or use. Proposed paragraph 10 also would include examples of the type of administrative actions that could be considered. For example, updating authorization rental fee clauses to reflect a new or modified land use rental fee for a power line would have no significant effect on the environment and use of a categorical exclusion would be appropriate; however, if the utility company that owns the power line requests an amendment to its special use authorization to include additional power line extensions that are outside an existing utility corridor, then use of a categorical exclusion would not be appropriate.

Proposed paragraph 11 would address situations involving a change of ownership of authorized improvements during the term of an existing special use authorization. Actions within this category would allow issuance of a special use authorization to a new owner of the currently authorized improvements, as long as there is no change in the authorized occupancy or use of National Forest System lands.

The actions in these proposed categories normally do not individually or cumulatively have a significant effect on the quality of the human environment. For example, consider the case of a telephone line that has been in existence and authorized for a 30-year term. Five years remain in the authorized term when the telephone company is purchased by another entity. The new owner is not proposing any changes to the authorized use and occupancy. Agency review indicates that issuing a new special use authorization for the five years remaining in the term to effect a name change, when there is no change to the use or occupancy authorized, would not have a significant effect on the environment. Use of a categorical exclusion, as set out in this proposed interim directive, would be appropriate.

In summary, the proposed categorical exclusions in section 31.1b would be applicable to those cases that do not involve a physical change to the environment. Review of the proposed action would ensure that the proposed categorical exclusions allow only for administrative changes that have no significant effect on the environment.

Section 31.2 of the handbook lists those categories of actions for which a project or case file and a decision memo are required. The Forest Service proposes to add a new paragraph 10 to section 31.2 to classify as a categorical exclusion the issuance of a new special use authorization upon the termination of the existing special use authorization, when the current holder and operations under the existing special use authorization are in full compliance with the terms and conditions of the special use authorization and no changes in the physical environment or facilities are proposed. Generally, special use authorizations are issued for terms ranging between 5 and 20 years.

The following is an example of a situation involving a special use authorization in which use of a categorical exclusion would be appropriate: An organization camp has been authorized for a term of 20 years and its term has expired. The holder applies for a new special use authorization and does not propose any change to the use or occupancy previously authorized. Agency review indicates that the use has been consistent with the terms and conditions of the authorization and that previous analysis determined there were no individually or cumulatively significant effects on the environment. Thus, the decision to issue a new special use authorization may be categorically excluded, so long as the requirements listed at 36 CFR 251.64 can be met and there are no significant effects on the environment.

In contrast, consider an example involving an oil and gas pipeline authorized 30 years ago. The special use authorization is due to expire, and the holder applies for a new special use authorization. The use and holder meet the requirements set out at 36 CFR 251.64. In this example, agency review indicates that the use had not previously been analyzed pursuant to NEPA, and new information shows threatened or endangered species may be significantly affected. Thus, continuing the use previously authorized may cause significant effects on the environment. A categorical exclusion would not be applied in this situation, and the appropriate level of NEPA analysis and documentation would have to be completed prior to issuance of a new special use authorization.

Extraordinary Circumstances

The proposed interim directive also would clarify the policy in the handbook regarding extraordinary circumstances at paragraph 2 of section 30.3 and the definition in section 30.5, which currently defines extraordinary circumstances as ''conditions associated with a normally excluded action that are identified during scoping as potentially having effects which may significantly affect the environment.'' The agency proposes to make minor revisions to clarify this definition. The revised definition would state: ''Instances where a proposed action normally excluded from documentation in an EIS or EA is identified as potentially having a significant effect on the resource conditions as set out in section 30.3, paragraphs 2a through 2g.'' Section 30.3 would be revised to clarify that it may be appropriate and permissible to categorically exclude from documentation in an EIS or EA those proposed actions where certain resource conditions are present, but only when the responsible official determines the proposed action would not have a significant environmental effect, either individually or cumulatively, on those conditions.

Considerable public and employee confusion exists regarding the application of a categorical exclusion to a proposed action when a listed resource condition is present. Additionally, Federal Circuit Courts have interpreted Forest Service direction on this issue differently. For example, the Seventh Circuit concluded that the Forest Service intended that the ''mere presence'' of any extraordinary circumstances precluded use of the categorical exclusion (*Rhodes* v. *Johnson*, 153 F.3d 785 (7th Cir. 1998)). However, the Ninth Circuit has held that an agency may issue a categorical exclusion even where a certain resource condition, in this case threatened or endangered species, is present (*Southwest Center for Biological Diversity* v. *U.S. Forest Service*, 100 F.3d 1443, 1450 (9th Cir. 1996); see also *Kirchbaum* v. *USFS*, 17 F. Supp. 2d 549, 557–58 (W.D. Va. 1998)).

The proposed revisions to the definition in section 30.5 and the direction in section 30.3, paragraphs 2, 3, and 4, would clarify the agency's intent that the presence of a listed resource condition does not automatically preclude use of a categorical exclusion. Treating the ''mere presence'' of a resource condition as an absolute bar to the availability of categorical exclusions has a major impact on the Forest Service's ability to efficiently fulfill its land management responsibilities. The resource conditions identified in the agency handbook (FSH 1909.15, section 30.3, paragraphs 2a–2g) are intended to act as guideposts that alert decision makers to potential instances where a categorical exclusion would be inappropriate. The procedures were never intended to override the responsible official's ability to determine that no significant environmental effects are associated with a proposed action and, therefore, that a categorical exclusion is appropriate. The proposed interim directive would make explicit the agency's intent that even in the presence of certain resource conditions, a proposal could still be categorically excluded if the responsible official determines the proposed action would not have a significant environmental effect on those resource conditions. Paragraph 3 retains the important requirement regarding scoping for all proposed actions. Proposed changes to paragraph 3 would, however, remove redundant guidance on preparation of EA's and EIS's, as adequate guidance already exists in chapters 20 and 40 of FSH 1909.15. Paragraph 4 would be expanded to reference FSH 1909.15, section 18, on the need to review and document new information or changed circumstances.

In addition, paragraph 2b of section 30.3, which lists threatened and endangered species or their critical habitat as examples of resource conditions, would be expanded to include species proposed for threatened or endangered listing, sensitive species, or their designated or proposed critical habitat. The proposed interim directive is set out at the end of this notice.

Environmental Impact

These proposed revisions to Forest Service Handbook (FSH) 1909.15 would clarify direction and improve consistent interpretation by field employees of requirements regarding NEPA documentation. Section 31.1b of FSH 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.'' The agency's preliminary assessment is that this proposed action falls within this category of actions, and that no extraordinary circumstances exist as currently defined which would require preparation of an environmental impact statement or environmental assessment. A final determination will be made upon adoption of the final interim directive. In addition, pursuant to 40 CFR 1505.1 and 1507.3, the agency is consulting with the Council on Environmental Quality (CEQ) to ensure full compliance with the purposes and provisions of NEPA and the CEQ implementing regulations.

Regulatory Impact

This proposed interim directive has been reviewed under USDA procedures and Executive Order 12866, Regulatory Planning and Review. It has been determined that this is not a significant action. This proposed action to clarify agency direction would not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This proposed action would not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this proposed action would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed action is not subject to Office of Management and Budget review under Executive Order 12866.

Moreover, this proposed action has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this proposed action would not have a significant economic impact on a substantial number of small entities as defined by the act because it will not impose record-keeping requirements on them; it would not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market.

Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered this proposed interim directive under the requirements of Executive Order 13132, Federalism, and has made an assessment that the proposed interim directive conforms with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States or 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 agency has determined that no further assessment of federalism implications is necessary at this time.

Moreover, this proposed interim directive does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and therefore advance consultation with tribes is not required.

No Takings Implications

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the proposed action does not pose the risk of a taking of Constitutionally protected private property.

Civil Justice Reform Act

This proposed action has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed interim directive were adopted, (1) all State and local laws and regulations that are in conflict with this proposed interim directive or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed interim directive; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

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 agency has assessed the effects of this proposed action on State, local, and tribal governments and the private sector. This proposed action would 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.

Energy Effects

This proposed interim directive has been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed interim directive does not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

This proposed interim directive does not contain any additional record-keeping or reporting requirements associated with the special uses program or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. The Office of Management and Budget (OMB) (Number 0596–0082) has approved the information collection associated with the special uses program. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: August 31, 2001.

Sally Collins,

Acting Chief.

Text of Proposed Interim Directive

Note: The Forest Service organizes its directive system by alphanumeric codes and subject headings. Only those sections of the Forest Service Handbook (FSH) 1909.15, Environmental Policy and Procedures Handbook, affected by this policy are included in this notice. The intended audience for this direction is Forest Service employees charged with issuing and administering special use authorizations. Selected headings and existing text are provided to assist the reader in placing the proposed direction in context, but primarily the revised text is set out here. Reviewers who wish to view the entire chapter 30 of FSH 1909.15 may obtain a copy from the address shown earlier in this notice and from the Forest Service home page on the World Wide Web/Internet at *http://www.fs.fed.us/cgi-bin/Directives/get__directives/fsh?1909.15.*

FSH 1909.15—ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

CHAPTER 30—CATEGORICAL EXCLUSION FROM DOCUMENTATION

(No change to the following section 30.3, paragraphs 1 and 1a:)

30.3—Policy.

1. A proposed action may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA) only if the proposed action:

a. Is within one of the categories in the Department of Agriculture (USDA) NEPA policies and procedures in 7 CFR part 1b.

(Proposed revision to the following section 30.3, paragraphs 1b and 2, as follows:)

b. Is within a category listed in section 31.1b or 31.2 and there are no instances of extraordinary circumstances (as described in the following para. 2 and defined in sec. 30.5) related to the proposed action that could result in a significant environmental effect.

2. Extraordinary circumstances (as defined in sec. 30.5) occur when a proposed action would have a significant effect on the resource conditions set out in the following paragraphs 2a through 2g. The responsible official may issue a categorical exclusion even when one or more of the resource conditions listed in paragraphs 2a through 2g are present, only if the official determines on a case-by-case basis that the proposed action would not have a significant effect on these resource conditions and thus an instance of extraordinary circumstances does not exist for that proposed action. The resource conditions to be considered in determining if extraordinary circumstances exist are:

(No change to the following paragraph 2a:)

a. Steep slopes or highly erosive soils.

(Proposed revision to paragraph 2b, as follows:)

b. Threatened, endangered, proposed, and sensitive species or their designated or proposed critical habitat.

(No change to the following paragraphs 2c–2g:)

c. Flood plains, wetlands, or municipal watersheds.

d. Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas.

e. Inventoried roadless areas.

f. Research Natural Areas.

g. Native American religious or cultural sites, archaeological sites, or historic properties or areas.

(Proposed revision to paragraph 3 and 4, as follows:)

3. Scoping is required on all proposed actions, including those that would appear to be categorically excluded (ch. 20 and 40).

4. If an action has been sufficiently analyzed in a completed EIS or an EA, but *not approved* in the appropriate decision document, issue a record of decision or a decision notice and finding of no significant impact without considering the categories in this chapter (ch. 30). If an action has been sufficiently analyzed in a completed EIS or EA and *approved* in the appropriate decision document, it can be implemented without considering the categories in this chapter (ch. 30). In these situations, consider the need to evaluate new information or changed circumstances that may have a bearing on the decision (sec. 18).

(No change to the following section 30.5, unnumbered paragraphs 1 and 2:)

30.5—Definitions.

Categorical Exclusion. (sec. 05)

Decision Memo. (sec. 05)

(Proposed revision to section 30.5, unnumbered paragraph 3, definition of

Extraordinary Circumstances, as follows:)

Extraordinary Circumstances. Instances where a proposed action normally excluded from documentation in an EIS or EA is identified as potentially having a significant effect on resource conditions as set out in section 30.3, paragraphs 2a through 2g.

31—Categories of Actions Excluded From Documentation.

(No change to the following sections 31 through 31.1b, paragraph 9c:)

31.1—Categories for Which a Project or Case File and Decision Memo Are Not Required. At the discretion of the responsible official, a project or case file and a decision memo are not required but may be prepared for the categories of actions set forth in sections 31.1a and 31.1b.

31.1a—Categories Established by the Secretary. The rules at 7 CFR 1b.3 exclude from documentation in an EIS or an EA the following categories:

(a) * * *

(1) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement and investigative activities;

(6) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation;

(7) Activities related to trade representation and market development activities abroad. (7 CFR 1b.3)

31.1b—Categories Established by the Chief. The following categories of routine administrative, maintenance, and other actions normally do not individually or cumulatively have a significant effect on the quality of the human environment (sec. 05) and, therefore, may be categorically excluded from documentation in an EIS or an EA unless scoping indicates extraordinary circumstances (sec. 30.5) exist:

(The unchanged text of paragraphs 1 through 9 is not set out.)

* * * * *

(Proposed new paragraphs 10 and 11, section 31.1b, as follows:)

10. *Amendment to an existing special use authorization during its term, involving no change in the authorized use and occupancy other than administrative changes.* Examples include but are not limited to:

a. Amending a special use authorization to reflect administrative changes, such as changes to the land use rental fee or conversion to a new type of special use authorization for a particular occupancy or use (for example, converting a permit to a lease or easement).

b. Amending a special use authorization to include nondiscretionary environmental standards or updating a special use authorization to bring it into conformance with current laws or regulations (for example, new water quality standards that require monitoring).

11. *Change in ownership of authorized improvements during the term of an existing special use authorization, involving no change in the authorized use and occupancy of National Forest System lands other than administrative changes.* Examples include but are not limited to issuance of a new special use authorization to a new owner of the authorized improvements, when there is no change to the authorized use and occupancy.

(No change to the following section 31.2 through (1):)

31.2—Categories of Actions for Which a Project or Case File and Decision Memo Are Required. Routine, proposed actions within any of the following categories may be excluded from documentation in an EIS or an EA; however, a project or case file is required and the decision to proceed must be documented in a decision memo (sec. 32). As a minimum, the project or case file should include any records prepared, such as:

(1) the names of interested and affected people, groups, and agencies contacted;

(Proposed revision to section 31.2 (2) and (3) as follows:)

(2) the determination that no instance of extraordinary circumstances related to the proposed action exists that may have a significant environmental effect on resource conditions; (3) a copy of the decision memo (sec. 30.5, para. 2);

(No change to the following section 31.2 (4) and (5):)

(4) a list of the people notified of the decision; (5) a copy of the notice required by 36 CFR Part 217, or any other notice used to inform interested and affected persons of the decision to proceed with or to implement an action that has been categorically excluded. Maintain a project or case file and prepare a decision memo for routine, proposed actions within any of the following categories.

(The unchanged text of paragraphs 1 through 9, section 31.2, is not set out.)

* * * * *

(Proposed new paragraph 10, section 31.2, as follows:)

10. *Issuance of a new special use authorization to the holder of an existing special use authorization when:*

a. The existing special use authorization terminates at the end of its term;

b. The holder is in full compliance with the terms and conditions of the terminating special use authorization; and

c. There would be no change in the physical environment or facilities or the scope or intensity of the operations.

(No change to the rest of chapter 30, sections 32–33.)

* * * * *

[FR Doc. 01–23408 Filed 9–19–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Amendment to Bylaws

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice of revised bylaws.

SUMMARY: The Board of Directors of the Rural Telephone Bank (Bank) adopted an amendment to the bylaws of the Bank on August 17, 2001. The bylaw amendment defines the terms ''eligible'' and ''controlled'' with respect to the purchase of Class C stock.

EFFECTIVE DATE: This action was effective August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Roberta D. Purcell, Assistant Governor, Rural Telephone Bank, (202) 720–9554.

SUPPLEMENTARY INFORMATION: Bylaw section 2.2, paragraph (c) is revised and redesignated as paragraphs (c) and (d), and existing paragraph (d) is redesignated as (e) as follows:

Article II—Capital Stock and Special Fund Equivalents

Sec. 2.2 Rights, Powers, Privileges and Preferences of Each Class of Stock

(c) Class C stock shall have a par value of one thousand dollars ($1,000) per share, shall be issued only at par, shall be held only by borrowers or by corporations and public bodies eligible to borrow under section 408 of the Act, or by organizations controlled by such borrowers, corporations and public

bodies, and shall be voting stock. A corporation or public body is considered eligible to borrow if it is engaged in activities that the Bank determines could be financed under section 408 of the Act. An organization is considered controlled if (1) a majority of the voting stock or other controlling authority in the organization is held by borrowers or by corporations and public bodies eligible to borrow under section 408 of the Act and (2) such borrowers, corporations, and public bodies are not prevented by any agreement or other restriction from exercising such controlling authority as they may desire.

(d) At such times and in such amounts as the Board may designate, dividends may be declared and paid to holders of Class C stock, but only from income of the Bank. Until all Class A stock is retired, the annual rate of any such dividend shall not exceed the current average rate payable on the bonds, debentures, notes and other evidences of indebtedness issued by the Bank (hereinafter collectively called ''telephone debentures''). No dividend on Class C stock shall be paid at any time when any portion of the cumulative 2 percent return on Class A stock required by section 406(c) of the Act remains unpaid. Prior to dissolution or liquidation of the Bank, Class C stock may be redeemed and retired only after all shares of Class A stock shall have been redeemed and retired. Upon dissolution or liquidation of the Bank, holders of Class C stock shall be entitled to retirement of their stock at par after payment of all liabilities of the Bank and after retirement of all Class A and Class B stock at par, but shall not be entitled to share in any remaining surpluses or contingency reserves, as provided in section 411 of the Act. Class C stock shall not be transferable, absolutely or by way of collateral, except to a borrower, or a corporation or public body eligible to borrow under section 408 of the Act, or an organization controlled by such borrowers, corporations, or public bodies.

(e) No holder of Class B or Class C stock shall be entitled to more than one vote, regardless of the number and class or classes of shares held, nor shall Class B and Class C stockholders, regardless of their number, which are owned or controlled by the same person, group of persons, firm, association, or corporation be entitled to more than one vote.

Dated: August 13, 2001.

Gary J. Morgan,

Acting Governor, Rural Telephone Bank.

[FR Doc. 01–23502 Filed 9–19–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Jackson County Lake Project, KY

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of record of decision.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing a Record of Decision (ROD) on the Environmental Impact Statement (EIS) prepared for the Jackson County Lake Project. The EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*) in accordance with the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 CFR 1500–1508) and RUS regulations (7 CFR 1794). The ROD concludes the EIS process for this proposal.

After reviewing comments from interested citizens, local businesses, environmental advocacy organizations, and other State and Federal agencies, RUS, with conditions, agrees to participate in the co-funding of its previously identified preferred alternative—the War Fork and Steer Fork (WSF), a 3.5 million gallons per day (MGD) reservoir and the construction of a raw water transmission main from the proposed reservoir to the existing JCWA Treatment Plant. This decision was made after comparing overall estimated project costs, user rate impacts, future growth prospects of Jackson County, Kentucky and adjacent areas, and evaluating other relevant information with regard to the reasonable alternatives considered in the EIS. The dam would be situated on War Fork, 0.75 miles north of the confluence with Steer Fork and located about 0.5 miles southwest of Turkey Foot campground in eastern Jackson County. The roller compacted concrete dam would be about 87 to 107 feet tall, 760 to 790 feet long, and 102 to 122 feet wide, creating a reservoir with an average yield of 3.5 MGD of raw water. At a normal pool elevation of 980 feet above mean sea level (MSL), the surface area of this reservoir would be about 116 acres. At a potential maximum flood elevation of 1,000 feet above MSL, the surface area of the reservoir would be approximately 162 acres. The total acreage for a reservoir at maximum flood level at this site, with a 300-foot buffer extending from normal pool level, would be about 337 acres of land. As much of this land is currently part of the Daniel Boone National Forest, land acquisition at this site would require a land exchange with the U.S. Forest Service. In addition, impounding ''waters of the United States'' will require a Clean Water Act, Section 404 permit from the U.S. Army Corps of Engineers. Other permits will be required; the applicants will be responsible for obtaining all applicable permits prior to construction.

FOR FURTHER INFORMATION CONTACT: For more information, contact: Mark S. Plank, Senior Environmental Scientist, USDA, Rural Utilities Service, Engineering and Environmental Staff, 1400 Independence Avenue, Mail Stop 1571, Washington, DC 20250, telephone (202) 720–1649, fax (202) 720–0820, or email: *mplank@rus.usda.gov.* Further information can also be obtained from: Kenneth Slone, State Director, USDA, Rural Development State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, telephone (606) 224–7300, or fax (606) 224–7340.

A copy of the ROD can be obtained or viewed online at *http://www.usda.gov/rus/water/ees/eis.htm.* The document is in a portable document format (pdf); in order to review or print the document, users need to obtain a free copy of Acrobat Reader. The Acrobat Reader can be obtained from *http://www.adobe.com/prodindex/acrobat/readstep.html.*

SUPPLEMENTARY INFORMATION: On July 10, 1997, the Jackson County Water Association (JCWA) and the Jackson County Empowerment Zone Community, Inc. (JCEZ) submitted an application to the U.S. Department of Agriculture, Rural Utilities Service (RUS) requesting financial assistance to co-fund a proposed reservoir whose purpose was two-fold: to provide water supply for the citizens of Jackson County, Kentucky and adjacent areas and for recreation. The proposal was to construct a 115-foot roller-concrete compacted dam on the Laurel Fork of the Rockcastle River creating a 640-acre reservoir and the construction of a raw water transmission main from the proposed reservoir to the JCWA Treatment Plant located at Tyner Lake in eastern Jackson County. In response to the application and in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4231 *et seq.*) and Agency regulations (7 CFR 1794, Environmental Policies and Procedures), RUS initiated the

preparation of an Environmental Impact Statement (EIS). Initial co-funding partners for the proposal were JCEZ; Appalachian Regional Commission; U.S. Department of Commerce, Economic Development Administration; and U.S. Housing and Urban Development, Community Block Grant Program.

After reviewing comments from interested citizens, local businesses, environmental advocacy organizations, and other State and Federal agencies, RUS, with conditions, agrees to participate in the co-funding of its previously identified preferred alternative—the War Fork and Steer Fork (WSF), a 3.5 million gallons per day (MGD) reservoir and the construction of a raw water transmission main from the proposed reservoir to the existing JCWA Treatment Plant. This decision was made after comparing overall estimated project costs, user rate impacts, future growth prospects of Jackson County and adjacent areas, and evaluating other relevant information with regard to the reasonable alternatives considered in the EIS. The dam would be situated on War Fork, 0.75 miles north of the confluence with Steer Fork and located about 0.5 miles southwest of Turkey Foot campground in eastern Jackson County. The roller compacted concrete dam would be about 87 to 107 feet tall, 760 to 790 feet long, and 102 to 122 feet wide, creating a reservoir with an average yield of 3.5 MGD of raw water. At a normal pool elevation of 980 feet above mean sea level (MSL), the surface area of this reservoir would be about 116 acres. At a potential maximum flood elevation of 1,000 feet above MSL, the surface area of the reservoir would be approximately 162 acres. The total acreage for a reservoir at maximum flood level at this site, with a 300-foot buffer extending from normal pool level, would be about 337 acres of land. As much of this land is currently part of the Daniel Boone National Forest, land acquisition at this site would require a land exchange with the U.S. Forest Service. In addition, impounding ''waters of the United States'' will require a Clean Water Act, Section 404 permit from the U.S. Army Corps of Engineers. Other permits will be required; the applicants will be responsible for obtaining all applicable permits prior to construction.

Lists of the alternatives reviewed prior to this decision are as follows. The first list contains the alternatives evaluated and eliminated from further study, and the rationale for their elimination. These alternatives were determined not to be reasonable for the reasons stated. The second list is a list of alternatives determined to be reasonable; these were evaluated in detail in the EIS. In addition, total estimated project costs are listed for these alternatives.

ALTERNATIVES ELIMINATED FROM FURTHER STUDY

Alternative	Rationale for elimination
Non-Reservoir Alternatives	
Groundwater Development	• Insufficient yield to meet the projected needs of Jackson County due to the geology of the County. • Potential for groundwater contamination.
Expansion of Tyner Lake and/or McKee Reservoir.	• Insufficient yields to meet the projected needs of Jackson County due to the sizes of the watersheds.
Importing Water From Surrounding Counties: Buckhorn Lake (Perry and Leslie Counties) and Laurel Lake (Laurel County).	• Not cost-effective [1] • Administrative, legal, and temporal hurdles (for the Buckhorn Lake alternative only).
Water Conservation [2]	• Insufficient quantity of water able to be conserved to meet the projected needs of Jackson County.
Pumped Storage From Existing Sources in Jackson County:	
• Laurel Fork and the Middle Fork of the Rockcastle River.	• Laurel Fork and the Middle Fork of the Rockcastle River: • Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel) in tributaries of the Cumberland River. • No improvement in Jackson County's ability to withstand multi-year droughts (no additional water storage).
• Indian Creek Rock Quarry	• Indian Creek Rock Quarry: • Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel) downstream of Indian Creek. • No improvement in Jackson County's ability to withstand multi-year droughts (no additional water storage). • Concerns over water quality and adequacy of flows.
Reservoir Alternatives	
Laurel Fork and Buzzard	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel). • Branch Outstanding Resource Water (ORW) designation.
Laurel Fork and McCammon Branch	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel). • ORW designation.
Horse Lick Creek	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel). • ORW designation.
South Fork of Station Camp Creek and Rock Lick.	• Wild and Scenic Study River designation of South Fork.
South Fork of Station Camp Creek and Cavanaugh Creek #2.	• Wild and Scenic Study River designation of South Fork.
South Fork of Station Camp Creek and Cavanaugh Creek.	• Wild and Scenic Study River designation of South Fork.

ALTERNATIVES ELIMINATED FROM FURTHER STUDY—Continued

Alternative	Rationale for elimination
McCammon Branch	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel) downstream. • Downstream feeds into waters with ORW designation.
Mill Creek	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel) downstream. • Stream waters feed into waters with ORW designation. • Insufficient yield for Jackson County during worst drought conditions; Insufficient sustainable yield for Jackson County and the region.
War Fork and Alcorn Branch	• Wild and Scenic Study River designation of included portion of War Fork.
South Fork of Station Camp Creek and War Fork.	• Wild and Scenic Study River designation of South Fork.
Travis Creek	• Insufficient yield.

[1] Revised cost estimates for pipelines from the Wood Creek Water District water distribution system and from Lock 14 of the Kentucky River were prepared for the FEIS. Based on a simple comparison of the estimated costs of construction and operation of these pipelines, and on the distances over which the Wood Creek Lake and Lock 14 pipelines would travel, rough construction and operation costs were projected for the Buckhorn Lake and Laurel Lake alternatives. Construction and operation of a pipeline from Buckhorn Lake is projected to cost well over $10 million more than either the Wood Creek Lake or Lock 14 pipelines. Construction and operation of a pipeline from Laurel Lake is project to cost well over $6 million more than either the Wood Creek Lake or Lock 14 pipelines. These costs suggest that these alternatives would not be cost-effective.

[2] Water conservation alone has been eliminated as a reasonable alternative to entirely meet the projected water needs for Jackson County and the region. However, in the revised water needs analysis presented in the FEIS, a water conservation factor of 10 percent was determined reasonable for incorporation into the revised water needs projections.

LIST OF REASONABLE ALTERNATIVES CONSIDERED—TOTAL ESTIMATED PROJECT COSTS [1]

Alternative	Total estimated project costs
No Action (existing rates)	N/A
War Fork, 3.5 mgd (preferred alternative)	$12,224,000
War Fork, 2.2 mgd	9,631,000
War Fork, 1.3 mgd	7,804,000
Sturgeon Creek, 3.5 mgd	13,286,000
Wood Creek Lake Pipeline, 2.2 mgd	11,441,000
Purchase of Potable Water	20,183,000
Wood Creek Lake Pipeline, 1.3 mgd	9,452,000
Purchase of Potable Water	16,213,000
Lock 14 Pipeline, 2.2 mgd	10,221,000
Lock 14 Pipeline, 1.3 mgd	8,964,000

[1] Includes 50-year operation and maintenance costs of the water transmission facilities.

Based on the analyses and conclusions presented in the Draft and Final EISs, RUS identified the WSF, 3.5 MGD alternative as its preferred alternative. Within the context of the proposed action's purpose and need as submitted to RUS, this alternative is the most environmentally preferable of the reasonable reservoir alternatives considered in the EIS.

Responses to the FEIS's public comments and RUS's analyses supporting its Record of Decision are presented in the following discussion.

As an overview, a public notice announcing a ''Notice of Intent to Prepare an Environmental Impact Statement and Notice of Public Meeting'' was published in the **Federal Register** (62 FR 41336 (1997)) and local newspapers on or beginning on August 1, 1997. Subsequent to these notices, a public scoping meeting to solicit public comments regarding the scope of the ensuing environmental impact analysis was held in McKee, Kentucky on August 21, 1997.

Prior to preparing and publishing a Draft EIS (DEIS), RUS undertook a number of investigative and preparatory studies to determine the basic parameters of the follow-on studies. The initial studies included: Water Need Analysis, Recreational Needs Analysis, Alternative Analysis, Endangered Species Screening Study and Field Survey for the Cumberland Bean Pearly Mussel, and Preliminary Survey for the Federally Endangered Indiana Bat and Virginia Big-eared Bat. The results and conclusions of these studies focused the follow-on, more detailed analyses on the alternatives determined to be reasonable.

Public notices announcing the availability of the DEIS and notice of public meetings were published in the **Federal Register** (65 FR 34142 (2000)) and local newspapers on or beginning on May 26, 2000. Because of the early identification and presence of endangered species at the proposal's site—the 640-acre reservoir at the Laurel Fork of the Rockcastle River—and the availability of other reasonable alternatives, RUS declined to participate in co-funding the proposal at this site. Instead RUS selected a preferred alternative that could meet the purpose and need of the proposal—the 3.5 MGD, 116-acre reservoir at the confluence of the War Fork and Steer Fork Rivers. The applicants agreed to the change in the proposal's location. The public comment period was 45 days. RUS held two public meetings to solicit public comments on the DEIS on June 27, 2000 in McKee, Kentucky.

In response to the public comments received on the DEIS, RUS re-evaluated a number of issues and prepared a Final EIS (FEIS). Public notices announcing the available of the FEIS were published in the **Federal Register** (66 FR 29768 (2001)) and local newspapers on or

beginning on June 1, 2001. Public comment period was 30 days.

RUS received comments from the following groups in support or opposition to RUS's preferred alternative:

PUBLIC COMMENTS ON FEIS

Group	Support (number)	Opposition (number)
Private Citizens	159	20
Businesses	8	0
Environmental Advocacy Groups	0	5
Local/State/Federal Governmental agencies	2	2

In general, a review of the FEIS's comments indicates commenters were confused as to the proposed action to which RUS is responding. Comments were made criticizing RUS for an overemphasis on or a bias to the proposal's recreational component and requests were made to remove this element from the proposed action. A brief summary of the applicant's proposal or proposed action is as follows.

The proposed action as stated in RUS's ''Notice of Intent to Prepare an Environmental Impact Statement'' published in the **Federal Register** and local newspapers stated: ''The primary scope of the EIS is to evaluate the environmental impacts of and alternatives to the Jackson County Water Association's applications for financial assistance to provide water supply for the residents of Jackson and surrounding counties. This project, known as the Jackson County Lake (Project), is one of the initiatives developed for the Kentucky Highlands Empowerment Zone. The project proposes to construct a 115 foot tall dam on the Laurel Fork of the Rockcastle River in Jackson County, Kentucky creating a 640 acre lake, storing approximately 28,440 acre feet of water. Included in the proposal is a raw water intake, pumps, water treatment plant upgrade from 1.0 million gallons per day (MGD) to 2.0 MGD, and pipelines necessary for transporting raw water to the Jackson County Water Association's water treatment plant for treatment and distribution to residents in Jackson County and portions of Lee, Madison, Owsley, and Rockcastle Counties. In addition to improving the water supply of the areas specified above, the Project will serve to meet a stated goal of the Kentucky Highland Empowerment Zone's Strategic Plan for increasing local recreational and tourism opportunities in the Jackson County area.''

The stated purpose and need for the proposal was two-fold—water supply and recreation. In responding to applicants' proposals, RUS normally does not dictate specific project elements. As long as proposed actions or project elements thereof meet RUS's loan and facility eligibility requirements as promulgated in 7 CFR 1780.7, *Eligibility*, and the project element is not unreasonable or unfeasible from a cost or technical (including environmental) perspective, RUS normally evaluates the proposal as submitted. Even if specific project elements do not meet the agency's eligibility requirements, RUS is not precluded from participating in the financing of the proposal as long as RUS's financial assistance is used to finance eligible project purposes.

RUS is responsible pursuant to the National Environmental Policy Act (NEPA) to objectively evaluate the potential environmental effects of the proposed action and through an informed decision-making process decide whether or not to fund the proposal. As stated above, the analyses performed during the EIS did determine that the proposal's original site was unreasonable due to the presence of threatened and endangered species and with the availability of other reasonable alternatives, RUS selected with the applicant's concurrence an alternate location. This location was asserted in the EIS as the agency's preferred alternative. Conclusions drawn from the Recreational Needs Analysis determined that the recreational component of the proposal was not unreasonable and met the applicants' stated purpose and need for the proposal. Therefore, RUS finds that the requests to remove the recreational elements from the proposal are not appropriate.

To clarify the genesis of the proposal with regard to the Kentucky Highland Empowerment Zone the following is presented.

On August 10, 1993, President Bill Clinton signed Public Law 103–66, Omnibus Budget Reconciliation Act of 1993. Subchapter XIII of the Act, titled ''Empowerment Zones, Enterprise Communities and Rural Development Investment Areas'' created the Empowerment Zone initiative for the purpose of empowering local communities and their residents to design and implement their own strategic plan for creating jobs and opportunities to build a better and brighter future.

In support of Public Law 103–66, President Clinton signed a directive on September 9, 1993 establishing the President's Community Enterprise Board to assist in coordinating across Federal agencies the various programs available to distressed communities. The Board was to assist in enabling distressed communities through a ''comprehensive, coordinated, and integrated approach that combines bottom-up initiatives and private-sector innovations with responsive Federal-State support.'' It emphasized a bottom-up community based strategy rather than the traditional top-down bureaucratic approach; in other words, the program provides for local self-determination in setting priorities, and puts the Federal government in the role of assisting communities with the priorities they have chosen and maintaining the integrity of the program's local implementation. It was a strategy to address economic, human, community, and physical development problems and opportunities in a comprehensive fashion. In addition, the program was intended to combine the resources of the Federal Government with those of State and local governments, educational institutions, and the private and non-profit sectors to implement community-developed strategic plans for economic development.

The statute specified certain criteria that must apply in order for an area to be eligible for Empowerment Zone designation, including geographic size, population, poverty rate by census tract (or by block numbering areas when the community is not delineated by census tracts), pervasive poverty, unemployment, and general distress of the area. The statute created urban and rural empowerment zones.

To support the selection and designation of rural empowerments zones, USDA published a notice in the

Federal Register on January 18, 1994, ''Notice Inviting Applications for Designation of Rural Empowerment Zones and Enterprise Communities'' (59 FR 2696 (1994)). This Notice invited applications from State and local governments, regional planning agencies, non-profit organizations, community-based organizations, or other locally based organizations to compete for the Secretarial designations as Empowerment Zones or Enterprise Communities. Application deadlines were set for June 30, 1994.

This notice prompted citizens from Clinton, Jackson, and Wayne Counties, Kentucky to initiate a series of public meetings to identify economic development goals for inclusion into a comprehensive Strategic Plan that was required as part of the Empowerment Zone application process. In conjunction with the Kentucky Highlands Investment Corporation, a private corporation exempt from taxation under the provisions of Section 501 (c) (4) of the Internal Revenue Code, these local citizens and leaders organized a Kentucky Highlands Steering Committee. In order to identify and establish ''benchmark'' economic development goals for the Strategic Plan, planning committees and subcommittees from each county were organized.

The Jackson County Planning Committee and its various subcommittees held and participated in public meetings on May 4, May 17, June 7 and June 14, 1994 with the goal to identify their local benchmarks. By the May 17 public meeting, the Infrastructure and Tourism Subcommittees both identified the lake proposal as a goal and the Jackson County Planning Committee submitted the goal to the Kentucky Highland Steering Committee for inclusion in the Strategic Plan. The Kentucky Highland Steering Committee agreed to include the goal and submitted the Strategic Plan and application to USDA.

On December 21, 1994, President Clinton announced the jurisdictions that were designated as Rural Empowerment Zones by USDA and the Kentucky Highlands application was one of three jurisdictions in the United States to be designated. This announcement was formalized in a **Federal Register** notice published by USDA on May 10, 1995 (60 FR 24828 (1995)), ''Notice of Designation of Empowerment Zones and Enterprise Communities.'' In accordance with the authorizing statute, each Empowerment Zone was entitled to receive grants of $40 million dollars for the economic development activities identified in their Strategic Plan. With the Empowerment Zone designation, the Kentucky Highlands Empowerment Zone was created and the lake proposal identified in the Kentucky Highlands Strategic Plan was established as Benchmark 19 with a $5 million budget.

Subsequent to the Empowerment Zone designation and with partial funding from a grant from the U.S. Forest Service and assistance from the Center for Economic Development, Eastern Kentucky University, the JCEZ prepared a May 1995 report titled, ''What We Envision: A Strategic Plan for Future Development, Jackson County.'' This plan developed an action plan that identified as Goal 3, Infrastructure—''Provide safe drinking water and an adequate supply for all residents and businesses of Jackson County.'' This report also re-examined and included by reference a 1988 study titled ''Prospects and Impacts of a Reservoir Location for Jackson County.'' The 1988 study evaluated eight potential reservoir sites in the county using broad socio-economic and environmental criteria and concluded that a 600-acre reservoir at the Steer/War/Hughes Fork site would reasonably meet the goals of the community and should be considered as the top candidate for such a reservoir proposal. The 1988 and 1995 report recommended evaluating the proposal in greater detail and further recommended that Empowerment Zone funds be utilized to further this stated goal.

All of the above led to the JCWA and JCEZ's July 10, 1997 application to RUS requesting financial assistance to co-fund their lake proposal. In reviewing the past and more recent planning actions of the local community and the JCEZ, RUS determined that the proposal would require an EIS. In addition to comply with the procedural requirements and intent of the National Environmental Policy Act (NEPA), RUS determined that both reservoir and non-reservoir alternatives had to be evaluated as part of the EIS. It was understood, that the non-reservoir alternatives would not meet the overall stated purpose and need of the applicant's proposed action—that is, the recreational component of the proposal. However, the analysis would be necessary in the event the reservoir alternatives would prove unfeasible for economic or environmental reasons.

In the Alternative Analysis and DEIS, RUS evaluated a number of reservoir locations as well as non-reservoir alternatives and the required no-action alternative. These alternatives are listed in the tables presented above. A total of eleven proposed reservoir locations were initially evaluated in the Alternative Analysis. Many of these reservoir alternatives were considered unreasonable, insufficient, or impracticable primarily due to the presence of threatened and endangered species, Outstanding Resource Waters designation, Wild and Scenic River designations, or insufficient yields. From this analysis, three reservoir alternatives were determined to be reasonable and were examined in greater detail in the EIS. Those alternatives and locations were the WSF and two scenarios in the Sturgeon Creek watershed.

Based on the Water Needs Analysis, RUS evaluated a number of water supply options for the pipeline alternatives and the three selected reasonable reservoir alternatives. The reservoir alternatives were 3.5 MGD for the WSF and 3.5 MGD and 8.5 MGD for the Sturgeon Creek watershed. The latter reservoir size was being evaluated for the potential of pursuing a more regional water supply approach to meeting the needs of Jackson and surrounding counties. This alternative, however, was abandoned because of the estimated project cost and the inability to secure any contractual or financial commitments from surrounding communities to pursue such a proposal. The pipeline alternatives were dismissed as unfeasible due to high project costs.

In response to public comments received on the DEIS and changes in the methodology used by University of Louisville, Kentucky Population Research for projecting future demographic trends, RUS recalculated water needs and re-evaluated costs and project feasibility associated with the non-reservoir alternatives that were earlier dismissed as too expensive. The revised water needs were recalculated for Jackson County residents alone and one that provided for a moderate growth potential and expansion of water service to the areas identified in the ''Notice of Intent to Prepare an Environmental Impact Statement.'' These areas included areas that are presently served by the JCWA, i.e., Rockcastle and Lee Counties as well as the adjacent, unserved areas in Owsley and Estill County that could be potentially served by the JCWA. While not a true regional approach, this was determined to be feasible and reasonable for contributing to the long-term water needs of central Kentucky.

Cost analyses in the FEIS included two pipeline alternatives (Wood Creek and Kentucky River, Lock/Pool 14) with two water supply scenarios and reservoir alternatives for the WSF with 3 water supply scenarios and one water

supply scenario for Sturgeon Creek. The table below summarizes these cost analyses.

IMPACTS ON TYPICAL RESIDENTIAL WATER RATES UNDER EACH ALTERNATIVE [1]

Alternative	Average monthly bill	Increased cost for average monthly bill	Percent increase over existing rates
No Action (existing rates)	$25.02	NA	NA
War Fork, 3.5 mgd	32.05	$7.03	$28.16
War Fork, 2.2 mgd	30.45	5.44	21.72
War Fork, 1.3 mgd	29.33	4.31	17.29
Sturgeon Creek, 3.5 mgd	32.87	7.85	31.38
Wood Creek Lake Pipeline, 2.2 mgd	33.31	8.30	33.17
Wood Creek Lake Pipeline, 1.3 mgd	32.23	7.21	28.81
Lock 14 Pipeline, 2.2 mgd	30.56	5.54	22.19
Lock 14 Pipeline, 1.3 mgd	30.02	5.00	20.04

[1] Based on an average monthly JCWA residential bill of $25.02 for 4,517 gallons of water.

In addition to the confusion regarding the development of the proposed action, significant public comments were made regarding the following issues: over-inflated water needs analyses; regional demand/supply issue; criticism regarding recreational needs analyses; status of Wild and Scenic River designation for the War Fork; improper consultation with other Federal agencies; consistency with or proper evaluation of the proposal's effect to waters of the United States relative to the Clean Water Act, Section 404(b)(1), 40 CFR part 230—''Guidelines for Specifications of Disposal Sites for Dredged or Fill Material,'' and criticism for not factoring potential Section 404 compensatory mitigation costs into total project costs. Each of these issues will be responded to briefly.

Over-inflated Water Needs—Primary concerns related to use of state-wide water use data for residential purposes versus actual data from the JCWA and use of 15% water loss and 10% water conservation in the overall water needs calculation. RUS continues to maintain that each of the parameters used are reasonable industry-wide standards for rural areas and use of such standards for long-range projections is reasonable and appropriate.

Regional Demand/Supply Issue—Evaluating, promoting and funding regional water systems, through for example consolidations, for financial, managerial and technical capacity development is consistent with RUS, U.S. Environmental Protection Agency and Safe Drinking Water Act policies. The EIS with limitations did attempt to look beyond just the immediate jurisdiction of Jackson County. Because the JCWA currently serves customers outside Jackson County it is logical that they will continue to do so particularly if additional potable water becomes available. It is also logical that they will continue to expand their service area as necessary to serve presently unserved citizens. As stated in the Water Needs Analysis, four jurisdictions—Rockcastle, Owsley, Lee and Clay counties—expressed interest in obtaining water, if available, at some future date.

Comments criticized RUS's calculation of water needs outside Jackson County (42% of Jackson County needs). Commenters are referred to the Water Needs Analysis, Regional Needs Assessment, page E–16 for clarification as to the methods used to quantify regional needs. RUS maintains that the value developed in the Water Needs Analysis is not unreasonable given the imprecise nature of a 50-year water needs projection and an inability, as earlier stated, of obtaining contractual or financial commitments from surrounding jurisdictions to pursue a more regional water supply perspective. In the DEIS, RUS did evaluate a 8.5 MGD Sturgeon Creek alternative but was dismissed due to reasons cited above. Placing the time and financial burden on the Jackson County community to fully explore a multi-county jurisdictional water system is unreasonable; the approach taken by the community and RUS in exploring expanded peripheral service beyond the JCWA's present service area is more reasonable and served as the basis for the analysis.

Recreational Needs Analysis—Many comments were received concerning the analyses presented in the EIS regarding recreational needs. The interest shown by the public on this issue demonstrates the subjectivity of determining recreational needs for and interests of a diverse population. The Recreational Needs Analysis (page F–21) indicated that at some level ''there will be increasing needs for additional camping, picnicking, hiking, and swimming facilities in the future. Based on the current facility plans, the proposed Jackson County lake would help meet some of the needs for picnicking facilities, and all of the needs for swimming facilities, which is projected to reach a maximum of only 29 acres for the planning period.

The Level of Lake Use (Section 3.2) in the area cannot be adequately assessed because recreational use data is very limited for the existing lakes in the study area. Based on the limited data, the current use of the lakes can be described as moderate to heavy. Since population is expected to increase in the study area under moderate and high growth scenarios, the proposed lake may help alleviate the potential heavy use of the surrounding lakes in the future.''

If the proposed lake is permitted, the types of recreational activities developed at the proposed lake will be determined in consultation with the U.S. Forest Service and be consistent with the water supply aspects of the reservoir. RUS acknowledges that the State of Kentucky has recommended water uses for water supply reservoirs.

RUS believes the conclusions drawn from the analyses presented in the Recreational Needs Analysis are reasonable and are consistent with the goals of the Kentucky Highlands Empowerment Zone Strategic Plan.

Status of the Wild and Scenic River Designation of War Fork—Many comments were received regarding the status of the War Fork as a candidate for the Wild and Scenic River System. The proposal's location is upstream from the segment of War Fork that has been recommended by the U.S. Forest Service for inclusion into the Wild and Scenic River System. The recommendation determined that this segment is eligible for a ''scenic'' classification.

While the candidacy or eligibility of stream segments for inclusion into the

Wild and Scenic River System was a major factor in the initial alternative analysis performed prior to the publication of the DEIS, RUS does not believe the proposed action, particularly with flow requirements required by the State of Kentucky, will have a significant effect on the streams' scenic classification or qualities.

Improper Consultation with Other Federal Agencies—Comments received criticized RUS for not consulting properly with other Federal agencies, primarily the U.S. Fish and Wildlife Service (USFWS). RUS does not agree with this charge. Considerable effort was made to include all of the pertinent agencies throughout the EIS. The USFWS was invited and participated in most of the planning and technical review sessions held throughout the entire analyses. Formal reviews of the EIS were coordinated, as requested, with the Department of Interior, Office of the Secretary, Office of Environmental Policy and Compliance. A comment letter was received from this office on the FEIS concurring on our no effect determination on threatened and endangered species. In addition, the Department of Interior stated that if the proposal is approved and permitted a pre-construction survey for the Grey Bat must be conducted. RUS will make this requirement a condition of its financial assistance.

In addition, comments were received alleging that RUS did not properly consult with the Kentucky Heritage Council. Based on the preliminary investigation performed prior to publication of the DEIS (see Appendix K), it is unlikely any historic properties will be affected by the proposed WSF reservoir. However, as a condition of financial assistance and upon successful permitting of the WSF reservoir, RUS will require the applicant to execute a Memorandum of Agreement (MOA) with and between the Kentucky Heritage Council (KHC), the Kentucky State Historic Preservation Officer (SHPO) and RUS. The MOA will formalize a phased identification and evaluation process consistent with 36 CFR 800.4(b)(2), Phased Identification and Evaluation.

Clean Water Act, Section 404(b)(1), 40 CFR Part 230—Guidelines for Specifications of Disposal Sites for Dredged or Fill Material—Many comments were received regarding the proposal's consistency with the Clean Water Act, Section 404(b)(1) Guidelines. The guidelines provide policy guidance to the U.S. Corps of Engineers (USACE) in determining consistency with the policies and goals of the Clean Water Act when issuing Section 404 permits. As stated in the U.S. Corps of Engineers Regulatory Guidance Letter 93–02, ''The fundamental precept of the Guidelines is that discharges of dredged or fill material into waters of the United States, including wetlands, should not occur unless it can be demonstrated that such discharges, either individually or cumulatively, will not result in unacceptable adverse effects on the aquatic ecosystem.''

In general, determining compliance with the 404(b)(1) Guidelines requires avoidance and minimization of adverse impacts and, in addition, compensatory mitigation is required for unavoidable adverse impacts. Determinations of whether the intent of these Guidelines have been met are a determination that USACE will make when acting on the JCEZ and JCWA's Section 404 permit application.

The primary purpose of the alternative analyses performed, as part of the EIS, was to avoid and minimize any unacceptable adverse environmental impacts. The preferred alternative was selected based on a comprehensive analysis of critical environmental and socio-economic factors; such as, the presence of threatened and endangered species; potential residential relocations in the Sturgeon Creek alternative; of numerous alternative locations for a reservoir; an evaluation of other reasonable non-reservoir alternatives; and, as required by NEPA, the no-action alternative. These non-reservoir alternatives ultimately did not meet the proposal's two-fold purpose and need, but were analyzed in the event the reservoir alternatives would prove unfeasible for economic or environmental reasons.

The EIS outlines and compares all of the WSF alternative's potential impacts. Most notably and significant will be the long-term effect of converting a free-flowing stream to an open water lake environment. This change will have predicable effects, primarily changes to water quality, such as dissolved oxygen, downstream temperatures, and stream flow rates. In addition, the EIS describes the likely biological effects. It is possible to manage most of these concerns and, therefore, minimize these potentially adverse effects through specific dam construction practices, all of which were discussed in the EIS and would be addressed during the Federal and State permitting process and through final design and specifications.

While recognizing that significant biological effects to the aquatic environment will occur, RUS does not believe that these effects are unacceptable in the context of the Section 404(b)(1) Guidelines. Notwithstanding these impacts, the fact that the WSF is located predominantly within National Forest System Lands is desirable for water quality purposes. No develop will likely occur in the buffer zone and the JCEZ proposes to purchase and convey the few remaining privately owned parcels surrounding the proposed lake for inclusion into the National Forest System. Therefore, the U.S. Forest Service will manage all developmental proposals surrounding the proposed reservoir.

The EIS clearly demonstrated the need for the Jackson County community to develop additional water supplies, particularly in meeting existing and future needs. Commenters to the EIS argued that the selection of one of the pipelines, particularly the pipeline to the Kentucky River, could logically meet the water needs of the Jackson County community; consultations with the Kentucky River Authority support this position in that the river is capable of supplying these needs. However, RUS's decision weighs heavy in supporting the intent and goals of the Empowerment Zone initiative by showing deference to the local citizens' long-stated desire, as expressed in the Kentucky Highlands Empowerment Zone's Strategic Plan and earlier documents, for a reservoir to provide a long-term, sustainable water supply and for developing recreational opportunities to further the Zone's economic development goals.

In agreeing to co-fund the WSF proposal, RUS will condition its loan approval on the following conditions. The JCEZ and JCWA shall:

- Obtain and comply with all local, State and Federal permits required for the construction and operation of the reservoir.
- Prior to construction consult with the U.S. Fish and Wildlife Service to perform a pre-construction survey for Grey Bats.
- Execute a Memorandum of Agreement (MOA) with the Kentucky Heritage Council (KHC), the Kentucky State Historic Preservation Officer and RUS. This MOA will formalize a phased identification and evaluation consistent with 36 CFR 800.4(b)(2), Phased Identification and Evaluation.

In addition, RUS fully supports the Jackson County community in its goal of obtaining a long-term, sustainable water supply. In the event that the JCEZ and JCWA are unable to obtain the proper permits, RUS stands ready to fund any other reasonable and feasible alternative identified in this EIS. Any deviation from the alternatives and their areas of potential affect evaluated in the EIS may

require supplemental environmental analyses.

Dated: September 11, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

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DEPARTMENT OF COMMERCE

Statutory Import Programs Staff; Change of Address

The office of Statutory Import Programs Staff has moved from the Department of Commerce's Herbert Clark Hoover Building, Room 4211 to the Franklin Court Building, Suite 4100W. Please use the appropriate address described below:

For Regular Mail via the U.S. Postal Service, please use: Statutory Import Programs Staff, U.S. Department of Commerce, FCB, Suite 4100W, 14th and Constitution Ave., NW, Washington, DC 20230.

For Express Mail Delivery Service, please use: Statutory Import Programs Staff, Department of Commerce, Franklin Court Building, Suite 4100W, 1099 14th St., NW, Washington, DC 20005.

Dated: September 14, 2001.

Faye Robinson,

Acting Director.

[FR Doc. 01–23456 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Bureau of Economic Analysis Advisory Committee; Meeting

AGENCY: Bureau of Economic Analysis; Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463, as amended by Public Law 94–409, Public Law 96–523, and Public Law 97–375), we are giving notice of a meeting of the Bureau of Economic Analysis Advisory Committee. The meeting's agenda is as follows: 1. Use of hedonic methods in the official statistics of the United States, 2. Historical GDP revisions, 3. Imputing the services of government capital, 4. Under or over count of imports or exports, 5. Draft strategic plan of BEA, 6. Discussion of topics for future agendas.

DATES: On Friday, November 30, 2001, the meeting will begin at 9:30 a.m. and adjourn at approximately 4 p.m.

ADDRESSES: The meeting will take place at BEA, 2nd floor, Conference Room A&B, 1441 L Street, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: J. Steven Landefeld, Director, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; telephone: 202–606–9600.

Public Participation: This meeting is open to the public. Because of security procedures, anyone planning to attend the meeting must contact Colleen Ryan of BEA at 202–606–9603 in advance. The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Colleen Ryan at 202–606–9603.

SUPPLEMENTARY INFORMATION: The Committee was established on September 2, 1999, to advise the Bureau of Economic Analysis (BEA) on matters related to the development and improvement of BEA's national, regional, and international economic accounts. This will be the Committee's fourth meeting.

Dated: August 31, 2001.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

[FR Doc. 01–23411 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Docket 37–2001

Foreign-Trade Zone 72—Indianapolis Airport Authority Expansion of Facilities and Manufacturing Authority—Subzone 72B, Eli Lilly and Company Plants (Pharmaceuticals) Indianapolis, Indiana, Area

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Indianapolis Airport Authority, grantee of FTZ 72, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR part 400), requesting authority on behalf of Eli Lilly and Company (Lilly), to add FTZ manufacturing capacity and to expand the scope of manufacturing authority under zone procedures at Subzone 72B, at the Lilly plants in the Indianapolis, Indiana, area. It was formally filed on September 13, 2001.

Subzones 72B, 72C, and 72D were approved by the Board in 1985 (Board Order 309, 50 FR 31404, 8/2/85). The subzones were consolidated into one subzone and redesignated Subzone 72B in 1996 (A(27f)-1–96). The facilities (14,300 employees) are used to manufacture, test, package, and warehouse human and animal health products.

Subzone 72B currently consists of three sites (366 buildings, 6,709,300 sq. ft., 1,456 acres) in the Indianapolis, Indiana, port of entry area. The applicant is proposing to expand Subzone 72B which would then consist of 491 buildings of 21,905,916 square feet on 3,439 acres.

Site 1 (5 parcels in Marion County, Indianapolis area), currently consists of 60 buildings containing 5,029,300 sq. ft. on 260 acres. Lilly is now proposing to add 125 buildings and 13,544,928 sq. ft., and 102 acres. Site 1 would then consist of 185 buildings of 18,574,228 sq. ft. on 359 acres.

Site 2 currently consists of 140 buildings, 1,170,000 sq. ft. on 449 acres on a single parcel located at 2010 Eli Lilly Road, Shadeland, Indiana. Lilly is proposing to add 363,687 square feet to existing and future buildings and add 1,877 acres. Site 2 would then total 140 buildings of 1,533,687 sq. ft. on 2,326 acres.

Site 3, located at State Road 63, Clinton, Indiana, is currently approved for 166 buildings of 510,000 sq. ft. on 747 acres. The proposed expansion would add 1,288,001 sq. ft. to existing and future buildings and add 4 acres. Site 3 would then consist of 166 buildings, 1,798,001 sq. ft. on 751 acres.

The application also requests to expand and clarify the scope of authority for manufacturing activity conducted under FTZ procedures at Subzone 72B to include additional general categories of inputs that have recently been approved by the Board for other pharmaceutical plants. They include gums, resins, starches, glycerol, vegetable extracts, mineral oils, chemically pure sugars, empty capsules for pharmaceutical use, protein concentrates, prepared animal feed, sodium chloride, natural magnesium phosphates and carbonates, gypsum, talc, anhydrite and plasters, petroleum jelly, paraffin and waxes, sulfuric acid, phosphoric acid, other inorganic acids or compounds of nonmetals, ammonia, fluorides, sulfates, sulfites, phosphates, cyanides, silicates, hydroxides, zinc oxide, titanium oxide, hydrazine and hydroxylamine, carbonates, salts of oxometallic acids, radioactive chemical elements, compounds of rare earth metals, hydrocarbons, acyclic hydrocarbons, alcohols, phenols, derivatives of phenols or peroxides, ethers, epoxides, aldehydes, ketone function compounds, mono- and

polycarboxylic acids, phosphoric esters; amine-, carboxymide, nitrile- and oxygen-function compounds; heterocyclic compounds, sulfonamides, acetals and hemiacetals, phosphoric esters and their salts, diazo-compounds, glands for therapeutic uses, insecticides, rodenticides, fungicides and herbicides, fertilizers, vitamins, hormones, antibiotics, gelatins, enzymes, pharmaceutical glaze, essential oils, albumins, gelatins, activated carbon, residual lyes, acrylic polymers, color lakes, soaps and detergents, wadding, gauze and bandages, pharmaceutical glaze, hair preparations, lubricating preparations, albumins, prepared glues and adhesives, catalytic preparations, diagnostic or laboratory reagents, prepared binders, polymers of ethylene, acrylic polymers, self-adhesive plates and sheets, other articles of vulcanized rubber, plastic cases, cardboard boxes, printed books, brochures and similar printed matter, printing ink, carboys, bottles, and flasks, stoppers, caps, and lids, aluminum foil, tin plates and sheets, taps, cocks and valves, and medical instruments and appliances.

FTZ procedures would exempt Lilly from Customs duty payments on the foreign components used in export activity. On its domestic sales, the company would be able to elect the duty rates that apply to finished products (primarily duty-free for finished pharmaceuticals and up to 14.2% for intermediates) for the foreign materials noted above (duty rates ranging from duty-free to 14.5%). The application indicates that the expanded use of FTZ procedures will help improve Lilly's international competitiveness.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 5, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 5-day period (to November 9, 2001).

Copies of the applications will be available for public inspection at the following locations:

U.S. Department of Commerce, Export Assistance Center, 11405 N. Pennsylvania Street, Suite 106, Carmel, Indiana 46032

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: September 13, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–23455 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of meeting.

SUMMARY: The APAC will have a closed meeting on October 4, 2001 at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: October 4, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, DC 20230, telephone: 202–482–1418.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Public Law 105–261). The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Acting Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on September 18, 2001, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the October 4 meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: September 18, 2001.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 01–23644 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Hawaii Coastal Management Program, the Great Bay National Estuarine Research Reserve, New Hampshire, the Jobos Bay National Estuarine Research Reserve, Puerto Rico, and the Ashepoo-Combahee-Edisto (ACE) Basin National Estuarine Research Reserve, South Carolina.

The Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR part 923, subpart L. The National Estuarine Research Reserve evaluations will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR part 921, subpart E and part 923, subpart L.

The CZMA requires continuing review of the performance of states with

respect to coastal program and research reserve program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document or Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

The Hawaii Coastal Management Program evaluation site visit will be held November 5–9, 2001. One public meeting will be held during the week. The public meeting will be on Monday, November 5, 2001, from 7 to 9 p.m., at the Paki Hale, 3840 Paki Avenue, Honolulu, Hawaii 96815.

The Great Bay National Estuarine Research Reserve evaluation site visit will be from November 6–9, 2001. One public meeting will be held during the week. The public meeting will be on Wednesday, November 7, 2001, at 7 p.m., at the Sandy Point Discovery Center, Great Bay National Esturaine Research Reserve, 89 Depot Road, Stratham, New Hampshire 03885.

The Jobos Bay National Estuarine Research Reserve site visit will be from December 10–14, 2001. One public meeting will be held during the week. The public meeting will be on Tuesday, December 11, 2001, from 4 p.m. to 6 p.m., at the Jobos Bay National Estuarine Research Reserve Visitors' Center, Road 705, Kilometer 2.3, Main Street, Aguirre, Puerto Rico 00704.

The Ashepoo-Combahee-Edisto (ACE) Basin National Estuarine Research Reserve site visit will be from December 10–14, 2001. One public meeting will be held during the week. The public meeting will be held on Wednesday, December 12, 2001, at 7 p.m., at the Edisto Beach State Park Office, Edisto, South Carolina 29464.

Copies of states' most recent performance reports, as well as OCRM's notifications and supplemental request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th floor, Silver Spring, Maryland 20910. When the evaluations are completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 215.

Dated: September 17, 2001.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–23645 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management Program: Public Hearing

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of public hearing.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* the National Oceanic and Atmospheric Administration (NOAA) has prepared a draft environmental impact statement (DEIS) to assess the environmental impacts associated with the approval of the Indian Lake Michigan Coastal Program (LMCP). The LMCP is the result of substantial efforts on the part of Federal, State, and local agencies, and of the participation and contribution of local citizens. Federal approval of the LMCP would make the State eligible for program administration grant funds and require that Federal actions be consistent with the Program.

The requirements of 40 CFR parts 1500–1508 [Council on environmental Quality (CEQ) regulations to implement the National Environmental Policy Act (NEPA)] apply to the preparation of the DEIS. Specifically, 40 CFR section 1506.6 requires agencies to provide public notice of NEPA-related hearings and the availability of environmental documents. This notice is part of NOAA's action to comply with the public hearing requirement.

The DEIS was filed with the Environmental Protection Agency (EPA) on September 12, 2001, and a notice of its availability will be published on September 21, 2001. NOAA and the Indiana Department of Natural Resources will hold public hearings on this DEIS in Michigan City, Indiana, on October 1, 2001; Highland, Indiana, on October 3, 2001; and Portage, Indiana, on October 4, 2001. All hearings will be held at 7 p.m.

DATES: Individuals or organizations wishing to submit comments on the DEIS should do so by November 5, 2001.

ADDRESSES: Comments should be made to John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, telephone (301) 713–3155 extension 188, e-mail *john.king@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Diana Olinger, Coastal Programs Division (NORM/3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, telephone (301) 713–3155, extension 149, e-mail *diana.olinger@noaa.gov.*

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 01–23522 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082401C]

North Pacific Fishery Management Council (NPFMC); Public Meetings

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

ACTION: Notice of rescheduling and relocation of a public meeting.

SUMMARY: The NPFMC's Essential Fish Habitat (EFH) Committee, originally scheduled to meet September 18–19, has cancelled that meeting and rescheduled the meeting date and location.

DATES: The meeting will be held on October 4, 2001, from 5 p.m. to 7 p.m.

ADDRESSES: The committee will meet in the Evergreen 1–2 meeting room, at the Doubletree Hotel, Seattle Airport, 18740 Pacific Highway South, Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Cindy Hartmann, NMFS, (907) 586–7585, email: Cindy.Hartmann@noaa.gov; or Cathy Coon, North Pacific Fishery Management Council, (907) 271–2809, e-mail: Cathy.Coon@noaa.gov.

SUPPLEMENTARY INFORMATION: The original notice, (66 FR 45970, August 31, 2001), stated that the meeting would be held on September 18–19, 2001, and the location was in Sitka, AK, at the Northern Southeast Regional Aquaculture Association, 1308 Sawmill Creek Road, in the conference room.

Agenda items for this meeting include:

1. Discussion of NMFS preliminary draft scoping report;

2. Committee recommendations to the Council on significant issues;

3. Discussion of technical teams and their composition; and

4. EFH Committee tasks, timetable and next meeting.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, (907) 271–2809, at least 5 working days prior to the meeting date.

All other previously published information remains unchanged.

Dated: September 17, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23468 Filed 9–17–01; 2:29 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090701D]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory Subpanel (CPSAS) will hold public meetings.

DATES: The CPSMT will meet on Wednesday, October 10, 2001 from 8 a.m. to 12 p.m. The CPSAS will meet on Wednesday, October 10, 2001 from 1 p.m. until business for the day is completed.

ADDRESSES: Both meetings will be held in the large conference room at the California Department of Fish and Game, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720, (562) 342–7100.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck, Pacific Fishery Management Council, (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the CPSMT meeting is to review the Pacific sardine biomass estimate and harvest guideline for 2002. Time permitting, the CPSMT might also discuss details related to Amendment 10 to the coastal pelagic species fishery management plan. The primary purpose of the CPSAS meeting is to review documents developed by the CPSMT, notably the Pacific sardine biomass estimate and recommended harvest guideline for 2002.

Although nonemergency issues not contained in the CPSMT and CPSAS meeting agendas may come before the committees for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the CPSMT's or CPSAS's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: September 7, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23469 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Bangladesh

September 14, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also

see 65 FR 69910, published on November 21, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 14, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 20, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	484,073 dozen.
334	173,286 dozen.
335	164,515 dozen.
338/339	2,188,286 dozen.
340/640	4,478,326 dozen.
341	3,449,818 dozen.
351/651	1,019,420 dozen.
634	813,842 dozen.
635	482,421 dozen.
638/639	2,123,898 dozen.
641	790,213 dozen.
645/646	445,495 dozen.
847	427,397 dozen.

[1] – thnsp;The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–23362 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

[HP 01–3]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00741; FRL–6802–8]

Draft Sampling Protocols for Chromated Copper Arsenate (CCA) Pressure-Treated Playground Equipment and Related Soil; Notice of Availability

AGENCIES: Consumer Product Safety Commission (CPSC). Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of draft sampling and analysis protocols developed cooperatively by CPSC and EPA to collect and analyze dislodgeable residues of arsenic, chromium and copper from Chromated Copper Arsenate (CCA) pressure-treated playground equipment (dislodgeable residues protocol) and soil residues of arsenic, chromium and copper in soils beneath/adjacent to CCA-treated playground equipment (soil residues protocol). The studies to be conducted using these protocols will assist both Agencies in assessing exposure that can be expected for children playing on/around CCA-treated playground equipment. By providing notice and opportunity for comment on the protocols, the Agencies are seeking to strengthen stakeholder involvement and help ensure that their decisions are transparent and based on the best available information.

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or by hand delivery. Please follow the detailed instructions provided in Unit I of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

1. Draft Dislodgeable Residues Protocol

For further information on the draft dislodgeable residues protocol contact: Patricia Bittner, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone number: (301) 504–0477, ext. 1184; fax number (301) 504–0079; e-mail address: pbittner@cpsc.gov.

2. Draft Soil Residues Protocol

For further information on the draft soil residues protocol contact: Norm Cook, Antimicrobials Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8253; fax number: (703)308–8481; e-mail address: cook.norm@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. This action may, however, be of particular interest to: Wood treaters; manufactures of CCA; wholesalers, distributors, and retailers of CCA-treated lumber and products made with CCA-treated lumber; and consumers purchasing and using CCA-treated lumber or CCA-treated lumber products. The Agencies are obtaining expert scientific peer review of the draft sampling and analysis protocols through EPA's contractor, Versar, but would also like to afford the general public an opportunity to comment on the study design prior to initiation of the actual sampling and analyses. All comments (Versar and public) will be carefully considered and made available in both CPSC's and EPA's dockets. Since other entities may also be interested, the Agencies have not attempted to describe all specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult one of the persons listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of the Draft Protocols and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of the draft protocols, and certain other related information that might be available electronically, from the CPSC Internet Home Page at http://www.cpsc.gov. To access these documents and information on the CPSC Home page, select ''Library (FOIA),'' ''Electronic Reading Room—Freedom of Information Act Information,'' ''2001 FOIA Information,'' and ''Commission Briefing Packages.'' Then scroll down to the materials designated with the name of this notice.

You may also access the draft protocols and related information from the EPA Internet Home Page at http://www.epa.gov/. To do so on the EPA Home Page, select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*.

2. In person. Copies of the draft protocols and related information may be obtained from the CPSC Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, MD; telephone number: (301) 504–0127; e-mail address: cpsc-os@cpsc.gov.

Copies of the draft protocols and related information may also be obtained from EPA. EPA has established an official record for this action under docket control number OPP–00741. The official record consists of the documents 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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. To Whom and How Do I Submit Comments?

1. Comments to CPSC on Draft Dislodgeable Residues Protocol

a. General. Comments on the draft dislodgeable residues protocol should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, MD 20814, telephone number: (301) 504–0800. Comments on the draft dislodgeable residues protocol also may be filed by facsimile to (301) 504–0127 or by e-mail to cpsc-os@cpsc.gov. Comments on the draft dislodgeable residues protocol should be captioned ''Notice of Availability of Draft Dislodgeable Residues Protocol.''

b. How should I Handle CBI that I Want to Submit to CPSC? Any person responding to the CPSC who believes that any information submitted is CBI (i.e., trade secret or proprietary) should specifically identify the exact portions of the document claimed to be confidential. The Commission's staff will receive and handle such information confidentially and in accordance with section 6(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2055(a). Such information will not be placed in the public docket for the rulemaking and will not be made available to the public simply upon request. If the Commission receives a request for disclosure of the information or concludes that its disclosure is necessary to discharge the Commission's responsibilities, the Commission will inform the person who submitted the information and provide that person with an opportunity to present additional information and views concerning the confidential nature of the information. 16 CFR 1015.18(b).

The Commission's staff will then make a determination as to whether the information is a trade secret or proprietary information that cannot be released. That determination will be made in accordance with applicable provisions of the CPSA; the Freedom of Information Act (FOIA), 5 U.S.C. 552b; 18 U.S.C. 1905; the Commission's procedural regulations at 16 CFR part 1015 governing protection and disclosure of information under provisions of FOIA; and relevant judicial interpretations. If the Commission concludes that any part of the information that has been submitted with a claim that the information is a trade secret or proprietary is disclosable, it will notify the person submitting the material in writing and provide at least 10 calendar days from the receipt of the letter to allow for that person to seek judicial relief. 15 U.S.C. 2055(a)(5) and (6); 16 CFR 1015.19(b).

2. Comments to EPA on Draft Soil Residues Protocol. Comments on the draft soil residues protocol should be submitted to EPA. To ensure proper receipt by EPA of comments, it is imperative that you identify docket control number OPP–00741 in the subject line on the first page of your response.

a. By mail. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

b. In person or by courier. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

c. Electronically. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00741. Electronic comments may also be filed online at many Federal Depository Libraries.

d. How Should I Handle CBI that I Want to Submit to EPA? Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

D. What Should I Consider as I Prepare My Comments?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the rule or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by the Agency, be sure to properly identify the

comments in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Actions Are the Agencies Taking?

A. CPSC

The CPSC received a petition from the Environmental Working Group (EWG) and the Healthy Building Network (HBN) requesting a ban on the use of CCA treated wood in playground equipment. The petitioners assert that a ban is necessary because ''[r]ecent research has shown that arsenic is more carcinogenic than previously recognized, that arsenic is present at significant concentrations on CCA-treated wood and in underlying soil, that the health risks posed by this wood are greater than previously recognized, and that past risk assessments were incomplete.''

The Commission docketed the request for a ban as a petition under provisions of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1278. The EWG/HBN submission also requested that the Commission review the safety of CCA-treated wood for general use. That request was not docketed as part of the petition because it would not require rulemaking. The request for a review is being considered separately by the CPSC's Office of Hazard Identification and Reduction. The Commission published notice of docketing of the EWG/HBN petition in the **Federal Register** of July 13, 2001 (66 FR 36756). The public comment period on that notice closed on September 11, 2001.

As part of its response to the EWG/HBN petition, the CPSC, in cooperation with EPA, has developed the draft dislodgeable residues protocol that is the subject of this notice. CPSC will use the results of the study to be conducted under the protocol in its further evaluation of the potential exposure and any associated risks to children who come in contact with CCA-treated wood.

B. EPA

As part of the reregistration process for heavy duty wood preservatives (including pentachlorophenol, creosote, and CCA) under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the EPA is evaluating the human and environmental risks of CCA. Since CCA-treated wood can be used in both commercial and residential settings, EPA intends to evaluate all uses of CCA-treated wood. Because of specific concerns associated with use of CCA-treated wood in playground equipment, the Agency is presently evaluating available exposure and hazards data in order to determine the risks to children who come in contact with CCA-treated wood and CCA-contaminated soil.

As part of the CCA-exposure evaluation, EPA, in cooperation with the CPSC, is developing a sampling regime that addresses potential soil residues of arsenic, chromium, and copper which may occur in soils below/adjacent to CCA-treated playground equipment. The draft protocol for that sampling regime is the subject of this notice.

List of Subjects

Consumer protection, Environmental protection, Arsenic, Chromated copper arsenate, Chromium, Copper, Hazardous substances, Pesticides and pests, Playgrounds, Soil.

Dated: September 13, 2001.

Todd A. Stevenson,

Acting Secretary, Office of the Secretary, Consumer Product Safety Commission.

Dated: September 14, 2001.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs, Environmental Protection Agency.

[FR Doc. 01–23409 Filed 9–19–01; 8:45 am]

BILLING CODE 6355–01–P; 6560–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Deterrence Concepts Advisory Group

AGENCY: DoD.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Deterrence Concepts Advisory Group will meet in closed session on September 20, 2001. The committee was established to provide advice and recommendations to the Secretary of Defense on advancing a strong, secure, and persuasive U.S. force for freedom and progress in the world, and to do so at the lowest nuclear force level consistent with security requirements.

In accordance with the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. App II (1982)], it has been determined that the committee meeting concerns matters sensitive to the interest of national security, listed in 5 U.S.C. 552B(c)(1)(1982) and accordingly this meeting was closed to the public.

DATES: September 20, 2001, 2 p.m.

ADDRESSES: The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lauren Haber, OUSD (Policy), 703–697–0286.

Dated: September 13, 2001.

L. M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23373 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Deterrence Concepts Advisory Group

AGENCY: DoD.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Deterrence Concepts Advisory Group will meet in closed session on September 27, 2001. The committee was established to provide advice and recommendations to the Secretary of Defense on advancing a strong, secure, and persuasive U.S. force for freedom and progress in the world, and to do so at the lowest nuclear force level consistent with security requirements.

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C. App II (1982)], it has been determined that the committee meeting concerns matters sensitive to the interest of national security, listed in 5 U.S.C. 552B(c)(1)(1982) and accordingly this meeting was closed to the public.

DATES: September 27, 2001, 1 p.m.

ADDRESSES: The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lauren Haber, OUSD (Policy), 703–697–0286.

Dated: September 13, 2001.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23374 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children With Disabilities; Meeting

AGENCY: Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS).

ACTION: Notice.

SUMMARY: Pursuant to Public Law 92–463, as amended (5 U.S.C. app. II), the Federal Advisory Committee Act, notice is hereby given that a meeting of the Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children with Disabilities is scheduled to be held from 8:30 a.m. to 3:30 p.m. on November 6–7, 2001. The meeting is open to the public and will be held in the Superintendent's offices at Building I4865, Knox Street, Fort Bragg, NC 28307–0089. The purpose of the meeting is to: (1) Review the responses to the panel's recommendations from its November 2000 meeting; (2) review and comment on data and information provided by DDESS; and (3) establish subcommittees as necessary. Persons desiring to attend the meeting or desiring to make oral presentations or submit written statements for consideration by the panel must contact Dr. David V. Burket at (703) 696–4354, extension 1455.

Dated: September 13, 2001.

L.M. Bymun,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 01–23370 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

ACTION: Notice.

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8 a.m. to 5 p.m. on October 4, 2001, and from 8 a.m. to 5 p.m. on October 5, 2001. The meeting will be held at the U.S. Grant Hotel, 326 Broadway, San Diego, California 92101. The purpose of the meeting is to review planned changes and progress in developing computerized and paper-and-pencil enlistment tests and renorming of the tests. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Assistant Secretary of Defense (Force Management Policy), Room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271, no later than September 17, 2001.

Dated: September 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23372 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to amend one system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on October 22, 2001 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 588–0159.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

JS007MPD

SYSTEM NAME:

Joint Manpower Automation System (April 19, 1993, 58 FR 21146).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete last address and replace with ''U.S. Joint Forces Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23511–2488.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C., Chapter 5, Sections 151–155 and Chapter 6, Section 165; and E.O. 9397 (SSN).''

* * * * *

JS007MPD

SYSTEM NAME:

Joint Manpower Automation System.

SYSTEM LOCATION:

Primary system: the Joint Staff (J–1), The Pentagon, Room 1D957, Washington, DC 20318–1000.

Decentralized Segments: National Defense University, Directorate of Resource Management, ATTN: RMD–M, Ft McNair, Washington, DC 20319–6000.

Headquarters, U.S. Space Command, ATTN: J1, Peterson Air Force Base, CO 80914–5001.

Headquarters, U.S. Pacific Command, ATTN: J1, Camp H. M. Smith, HI 96861–5025.

HQ U.S. Strategic Command, ATTN: J11, Offutt Air Force Base, NE 68113.

Headquarters, U.S. European Command, ATTN: ECJ1, APO AE 09128–4209.

Headquarters, U.S. Southern Command, ATTN: SCJ1, APO AA 34003–0100.

Headquarters, U.S. Transportation Command, ATTN: J–1, Scott Air Force Base, IL 62225.

Headquarters, U.S. Central Command, ATTN: CCJ1, MacDill Air Force Base, FL 33608–7001; and

U.S. Joint Forces Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23511–2488.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian personnel assigned to duty at each of the activities cited above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain personnel information which has been extracted from official personnel files, including name; grade/rank; Social Security Number; salary; family member information; home address and telephone number; security clearance and date; date of rank; date of birth; Service; sex; race; marital status; reporting/departure date; current assignment data; education; experience; language proficiency; schooling; rating chain; and physical fitness data such as height, weight, fitness test results, body fat percentage, HIV test date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., Chapter 5, sections 151–155 and Chapter 6, section 165; and E.O. 9397 (SSN).

PURPOSE(S):

To be used by officials of the personnel divisions of the decentralized segments noted above in performing all administrative functions as appropriate with respect to personnel assigned; for monitoring and processing requests for manpower; for performing organizational and manpower reviews for the CINC; and for processing personnel actions requested by or required for the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Joint Staff compilation of records system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records exist on magnetic tape, diskette, and other machine-readable media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, and/or any combination of the data fields described in ''Categories of Records.''

SAFEGUARDS:

Access to this record system is restricted to authorized personnel in performance of official duties. Entry into the system is controlled by password.

RETENTION AND DISPOSAL:

Records are deleted when no longer needed for current business. This is in accordance with Item 5, General Records Schedule 20.

SYSTEM MANAGER(S) AND ADDRESS:

Joint Manpower Automation System Project Manager, Manpower Management Division, Manpower and Personnel Directorate, J–1, the Joint Staff, Washington, DC 20318–1000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Joint Manpower Automation System Functional Manager, Manpower Management Division, Manpower and Personnel Directorate, J–1, the Joint Staff, Washington, DC 20318–1000.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Joint Manpower Automation System Project Manager, Manpower Management Division, Manpower and Personnel Directorate, J–1, the Joint Staff, Washington, DC 20318–1000.

Written requests should include full name, Social Security Number, address, and signature of the requester.

CONTESTING RECORD PROCEDURES:

The Joint Staff rules for accessing records and for contesting contents and appealing initial determinations are contained in OSD Administrative Instruction 81; Joint Administrative Instruction 2530.9A; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Source of information is the individual and the individual's Official Personnel File.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–23375 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Threat Reduction Agency (DTRA); Membership of the DTRA Performance Review Board (PRB)

AGENCY: Defense Threat Reduction Agency, Department of Defense.

ACTION: Notice of PRB membership.

SUMMARY: This notice announces the appointment of DTRA's PRB membership. The publication of the PRB membership is required by 5 U.S.C. 4314(c)(4). The PRB shall provide fair and impartial review of Senior Executive Service performance appraisals and make recommendations regarding performance ratings and performance awards to the Director, Defense Threat Reduction Agency.

EFFECTIVE DATE: The effective date of service for the appointees of the DTRA PRB is on or about September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Tana Farrell, Workforce Development Branch, (703) 767–5759, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Stop 6201, Ft. Belvoir, VA 22060–6201.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the officials appointed to serve as members of the DTRA PRB are set forth below:

PRB Chair: Mr. Robert L. Brittigan.

Member: Mr. Myron K. Kunka.

Member: Mr. Michael K. Evenson.

The following DTRA officials will serve as alternate members of the DTRA PRB, as appropriate: Mr. Douglas Englund, Mr. Joe Golden, Mr. Richard Gullickson, Dr. Arthur Hopkins, Dr. Don Linger, Mr. Vayl Oxford, Ms. Joan Ma Pierre, Dr. Michael Shore, Ms. Ann Bridges Steely, Dr. Leon Wittwer.

Dated: September 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23371 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Army.

EFFECTIVE DATE: September 14, 2001.

FOR FURTHER INFORMATION CONTACT: David Stokes, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower & Reserve Affairs, 111 Army, Washington, DC 20310–0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives. The members of the Performance Review Board for the US NATO Field Element (Army) are:

1. Mr. Sal Manno, Director of International Affairs, Office of the Secretary of Defense.

2. Mr. Al Volkman, Director, OUSD/AT&L Intl Programs Office of the Secretary of Defense.

3. Mr. Leo Michel, Director, NATO Policy, Office of the Secretary of Defense.

4. Mr. Pete Verga, Deputy Under Secretary of Defense for Policy

Integration, Office of the Secretary of Defense.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–23519 Filed 9–19–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Encinitas/Solana Beach Shoreline Protection and San Elijo Lagoon Environmental Restoration Feasibility Study, San Diego County, California

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice

SUMMARY: The Los Angeles District intends to prepare an Environmental Impact Statement (EIS) to support a cost-shared feasibility study with the Cities of Encinitas and Solana Beach, California, for shoreline protection and environmental restoration along the coastline of these two cities. The purpose of the feasibility study is to evaluate alternatives for reducing beach and shoreline erosion and investigate opportunities for environmental restoration in the San Elijo lagoon. Alternatives will include both structural and non-structural measures, and may include beneficial re-use of sand removed from the lagoon by placing it on the beach for shoreline protection. The EIS will analyze potential impacts of the recommended plan and a range of alternatives for lagoon environmental improvements.

ADDRESSES: Commander, U.S. Army Corps of Engineers, Los Angeles District, 911 Wilshire Blvd, Los Angeles, CA 90053, Attn: Environmental Support Section.

FOR FURTHER INFORMATION CONTACT: Rey Farve, Project Ecologist (213) 452–3864, or Bruce Williams, Study Manager, (213) 452–3818.

SUPPLEMENTARY INFORMATION: Authorization: House Public Works Transportation Committee Resolution dated May 13, 1993. The Army Corps of Engineers intends to prepare an EIS to assess the environmental effects associated with proposed erosion mitigating measures in the study area.

Study Area: The study area is located along the Pacific Ocean coastline in the Cities of Encinitas and Solana Beach, San Diego County, California. Encinitas is approximately 16 kilometers (10 miles) south of Oceanside Harbor, and 27 kilometers (17 miles) north of Point La Jolla. The City's shoreline, about 9.6 kilometers (6 miles) long, is bounded by Batiquitos Lagoon to the north and on the south by San Elijo Lagoon. Its southern, or downcoast, neighbor is the City of Solana Beach. Solana Beach is bounded by San Elijo Lagoon to the north and on the south by the City of Del Mar. The City's shoreline is about 3.2 kilometers (2 miles) long for a total of about 8 miles of study area shoreline. A major portion of the shoreline segment consists of narrow sand and cobble beaches fronting nearshore bluffs.

Problems and Needs: A number of public concerns have been identified including:

1. Bluff erosion threatens property, mostly private residences atop the bluffs.

2. Public safety due to episodic bluff failure.

3. Closure of Old Highway 101 at Cardiff during storm events.

4. Bluff toe erosion and curtailed recreation activity resulting from eroded beach conditions.

5. Degradation of existing ecosystem at San Elijo Lagoon due to frequent closure of the lagoon entrance restricting tidal flushing and sedimentation in the lagoon reducing circulation and water area.

Proposed Action and Alternatives: The Los Angeles District will investigate and evaluate all reasonable alternatives to address the problems and needs identified above. In addition to the NO ACTION alternative, both structural (artificial reefs, toe protection, beach restoration and maintenance, bluff retention structures, drainage control, etc.) and non-structural (management) measures will be investigated. Environmental measures may also include structural and non-structural measure to improve tidal hydrology and restore and maintain a healthy ecosystem within the lagoon. This may include removal of sediment from the lagoon which will be tested for suitability for beach placement. If found suitable, this material may be placed on the beach for shoreline protection as beneficial re-use.

If not found suitable, the sediment will be removed to a different location, and the lagoon restoration project may then break off from the shoreline protection study and become an independent environmental restoration study for the remainder of the Feasibility phase.

Scoping: The scoping process is on-going and has involved preliminary coordination with Federal, State, and local agencies. A public scoping meeting is scheduled for 6:00 p.m. on October 3, at the city of Encinitas—City Hall—Poinsettia Room 505 S. Vulcan Avenue, Encinitas, California. This information is being published in the local news media and a notice is being mailed to all parties on the study mailing list. The public will have an opportunity to express opinions and raise any issues relating to the scope of the Feasibility Study and the Environmental Impact Report. The public as well as Federal, State, and local agencies are encouraged to participate by submitting data, information, and comments identifying relevant environmental and socioeconomic issues to be addressed in the study. Useful information includes other environmental studies, published an unpublished data, alternatives that could be addressed in the analysis, and potential mitigation measures associated with the proposed action. All comments enter into the public record. You may also submit your concerns in writing to the city or the Los Angeles District at the address above. Comments, suggestions, and requests to be placed on the mailing list for announcements should be sent to Bruce M. Williams, U.S. Army Corps of Engineers, Los Angeles District, P.O. Box 532711, Los Angeles, CA 90053–2325, Attn: CESPL–PD, or e-mail to *bwilliams@spl.usace.army.mil.*

Availability of the Draft EIS: The Draft EIS is scheduled to be published and circulated in November, 2003, and a public hearing to receive comments on the Draft EIS will be held after it is published.

Dated: September 7, 2001.

Richard G. Thompson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 01–23520 Filed 9–19–01; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.007, 84.033, and 84.038]

Office of Student Financial Assistance; Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs; Notice of the Closing Date for the Submission of the Fiscal Operations Report for the 2000–2001 Award Year and Application to Participate for the 2002–2003 Award Year (FISAP) in the Federal Perkins Loan, Federal Supplemental Educational Opportunity Grant (FSEOG), and Federal Work-Study (FWS) Programs

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to apply for fiscal year 2002 funds—for use in the 2002–2003 award year (July 1, 2002 through June 30, 2003)—under the Federal Perkins Loan, FWS, and FSEOG programs. Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the costs of postsecondary education. An institution is not required to establish eligibility prior to applying for funds. However, the Secretary will not allocate funds under the Federal Perkins Loan, FWS, and FSEOG programs for the 2002–2003 award year to any currently ineligible institution unless the institution files its institutional participation application and other documents required for an eligibility and certification determination by the closing date that will appear in a separate notice in the **Federal Register**.

The Secretary further gives notice that an institution that had a Federal Perkins Loan Fund or expended FWS or FSEOG funds during the 2000–2001 award year (July 1, 2000 through June 30, 2001) is required to submit a Fiscal Operations Report to the Secretary to report its program expenditures as of June 30, 2001. Institutions perform both functions in one document called the FISAP.

Applicants that did not participate in the Federal Perkins Loan Program, FWS Program, or FSEOG Program in the 2000–2001 award year will be required only to submit data for the application portion of the FISAP.

FISAPs must be submitted electronically. Therefore, an institution also must complete and submit a ''combined certification and signature pages form,'' consisting of the original FISAP signature page and the combined lobbying, debarment, and drug-free workplace certifications for the 2002–2003 award year.

The Federal Perkins Loan, FWS, and FSEOG programs are authorized by parts E and C, and part A, subpart 3, respectively, of title IV of the Higher Education Act of 1965, as amended.

DATES: *Closing Date for Submitting a FISAP and Required Signed Documents.* To ensure consideration for 2002–2003 funds, an institution must submit an electronic FISAP and the combined certification and signature pages form by October 1, 2001.

An institution must submit its FISAP electronically via the Department's Student Aid Internet Gateway (formerly Title IV Wide Area Network or TIV WAN). Specific information and instructions on this electronic transmission are provided in ''Dear Partner'' letter CB–01–09 (JUL). This letter is posted at *http://ifap.ed.gov.*

The FISAP electronic data transmission must be completed by 11:59 p.m., Eastern Time, on October 1, 2001. In addition, the combined certification and signature pages form, as printed from the electronic FISAP software, must be mailed to the address indicated in the following paragraph by the established deadline date of October 1, 2001. Documents that are hand-delivered must be received by 5 p.m. on Monday, October 1, 2001.

ADDRESSES: *Combined Certification and Signature Pages Form Delivered by Mail.* If this document is delivered by mail, it must be addressed to Electronic FISAP Administrator, Suite 500, 8300 Colesville Road, Silver Spring, Maryland 20910–3289.

An institution must show proof of mailing this document by October 1, 2001. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If this document is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

Combined Certification and Signature Pages Form Delivered by Hand. If this document is delivered by hand, it must be taken to Universal Automation Labs (UAL), Suite 500, 8300 Colesville Road, Silver Spring, Maryland.

Documents that are hand-delivered will be accepted between 9 a.m. and 5 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays.

SUPPLEMENTARY INFORMATION: The 2002–2003 Campus-Based Programs FISAP Software, Instruction Book, and forms were made available in July 2001 at www.sfadownload.ed.gov and announced in ''Dear Partner'' Letter CB–01–09.

This program information package is intended to aid applicants in applying for assistance under these programs. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing the programs.

Applicable Regulations

The following regulations apply to these programs:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 673.

(3) Federal Perkins Loan Program 34 CFR part 674.

(4) Federal Work-Study Programs, 34 CFR part 675.

(5) Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

(6) Institutional Eligibility Under the Higher Education Act of 1965, as Amended, 34 CFR part 600.

(7) New Restrictions on Lobbying, 34 CFR part 82.

(8) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR part 85.

(9) Drug-Free Schools and Campuses, 34 CFR part 86.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Donelson, Campus-Based Operations, Student Financial Assistance, 400 Maryland Avenue, SW., Room 600D, Portals Building, Washington, DC 20202–5453. Telephone (202) 708–9751. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print,

audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*

Dated: September 17, 2001.

Greg Woods,

Chief Operating Officer, Office of Student Financial Assistance.

[FR Doc. 01–23422 Filed 9–19–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation

Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Argentine Republic Concerning Peaceful Uses of Nuclear Energy and Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy.

This subsequent arrangement concerns the retransfer of two zircalloy-4 tubes, 1500 mm long, 0.42 mm thick and 13.08 mm diameter, from CONUAR—Combustibles Nucleares Argentinos S.A., Argentina to Gao Tai Rare and Precious Metals Co., Shanghai, China (Gao Tai). The material will be used by the German company Nukem GmbH in the installation and testing of an ultrasonic test system sold to Gao Tai. The Chinese Government has provided formal assurances to the United States Government that the zircalloy tubes will become subject to the terms and conditions of the Agreement for Cooperation upon their receipt into China.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: September 14, 2001.

For the Department of Energy.

Kurt Siemon,

Acting Director, Office of Nonproliferation Policy.

[FR Doc. 01–23424 Filed 9–19–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office

Chemicals Industry of the Future; Notice of Intent of Solicitation for Awards of Financial Assistance

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of intent of Solicitation for Financial Assistance Applications.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office, will be soliciting applications for cost-shared research and development (R&D) of technologies that will reduce energy consumption, enhance economic competitiveness, and reduce environmental impacts of the Chemicals Industry. Approximately $3,000,000 in federal funding is expected to be available to fund the first twelve months of selected research projects. Subject to the availability of funds, approximately $6 million is planned to fund the remaining two years of the projects. DOE anticipates making 3 to 6 cooperative agreement awards each with a duration of three years or less. It is anticipated that in January, 2002, a full text for the solicitation will be made available at the Industry Interactive Procurement System (IIPS) Web site at: *http://e-center.doe.gov:* Applications are to be submitted via the IIPS Web site. Directions on how to apply and submit applications are detailed under the solicitation on the Web site.

FOR FURTHER INFORMATION CONTACT: Dallas Hoffer, Contracting Officer at hofferdl@id.doe.gov.

SUPPLEMENTARY INFORMATION: The solicitation will be issued in accordance with 10 CFR part 600.6(b). DOE is interested in projects that will:

1. Result in the formation of multi-disciplinary teams that will conduct research that will ultimately develop new, innovative enabling technologies, methodologies, and/or tools;

2. Have broad applicability to the chemical industry, and therefore, result in a collaborative of many chemical companies, and;

3. Demonstrate a large potential energy savings across the chemical industry.

A minimum of three industrial chemical companies must be involved. An ''industrial chemical company'' is defined as a private (profit or non-profit) organization that manufactures chemicals and allied products or provides products or services to such manufacturers. In addition to chemical and allied products manufacturers, raw material suppliers, equipment and technology suppliers, architectural and engineering companies, software and consulting firms, trade and professional associations, and research institutes that routinely conduct a minimum of 10% of their business as, with, or for Chemical Industry manufacturers, are within the scope of the definition. The involvement of National Laboratories and university R&D performers in any project team is also highly encouraged.

The statutory authority for this program is the U.S. Department of Energy Organization Act (Public Law 95–91) and the Energy Policy Act of 1992 (Public Law 102–486, as amended by Public Law 103–437).

Issued in Idaho Falls on September 13, 2001.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–23426 Filed 9–19–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket Nos. 00–29–LNG, 01–40–NG, 01–39–NG, 01–41–NG, 01–42–NG, 01–44–LNG, 00–77–NG]

Tractebel LNG North America Service Corporation (Formerly Cabot Energy Service Corporation), Reliant Energy Services, Inc., Conoco, Inc., Husky Gas Marketing, Inc., Portland General Electric Company, Itochu International, Inc., Hess Energy Services Company, LLC; Orders Granting, Amending and Vacating Authority To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during August 2001, it issued Orders granting, amending and vacating authority to import and export natural gas, including liquefied natural gas. These Orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on September 12, 2001.

Thomas W. Dukes,

Acting Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

Appendix—Orders Granting, Amending and Vacating Import/Export Authorizations

Order	Date issued	Importer/Exporter FE Docket No.	Import volume	Export volume	Comments
1590–A	8–6–01	Tractebel LNG North America Service Corporation (Formerly Cabot Energy Service Corporation), 00–29–LNG.	.....	.....	Name change.
1700	8–6–01	Reliant Energy Services, Inc., 01–40–NG	292 Bcf	292 Bcf	Import a combined total from Canada and Mexico, and export a combined total to Canada and Mexico over a two-year term beginning on first delivery after September 10, 2001.
1701	8–7–01	Conoco Inc., 01–39–NG	100 Bcf		Import and export a combined total from and to Canada and Mexico, beginning on August 27, 2001, and extending through August 26, 2003.
1702	8–10–01	Huskey Gas Marketing, Inc., 01–41–NG	250 Bcf		Import and export a combined total from and to Canada beginning on August 10, 2001, and extending through August 9, 2003. Vacates Order 1539.
1704	8–15–01	Portland General Electric Company, 01–42–NG.	90 Bcf	.....	Import from Canada beginning on November 3, 2001, and extending through November 2, 2003.
1705	8–29–01	ITOCHU International Inc., 01–44–LNG	2.4 Tcf	.....	Import LNG from various sources over a two-year term beginning on the date of first delivery.
1649–A	8–30–01	Hess Energy Services Company, LLC, 00–77–NG.	.....	.....	Order vacating blanket authority.

[FR Doc. 01–23425 Filed 9–19–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2409–120; Project Nos. 420–016 and 1922–035; Project No. 2442–058; Project No. 2975–017; Project Nos. 2005–010 and 2067–017; Project Nos. 1510–013, 2558–021; 2677–013, and 2715–021; Project No. 3083–094; Project Nos. 3190–017, 3193–017, and 619–094]

Notice Redesignating Proceeding; Calaveras County Water District, Ketchikan Public Utilities, City of Watertown, New York, Tri-Dam Power Authority, Oakdale and South San Joaquin Irrigation Districts, City of Kaukauna, Wisconsin, Oklahoma Municipal Power Authority, City of Santa Clara, California

September 13, 2001.

On July 16, 2001, the Commission's Chief Accountant issued Fiscal Year (FY) 2001 administrative annual charges bills to licensees for hydroelectric projects licensed by the Commission. The FY 2001 annual charges bills for licensees who appealed their FY 1999 and FY 2000 annual charges bills with respect to administrative costs related to the administration of Part I of the Federal Power Act by other federal agencies (OFAs) include credits for OFA costs disallowed from the FY 1999 and FY 2000 annual charges bills pursuant to certain prior Commission orders.[1] On August 15, 2001, the licensees appearing in the caption of this notice filed a request for rehearing of their FY 2001 annual charges bills with respect to the credits therein for OFA costs disallowed from the FY 1999 and FY 2000 bills. The licensees' request for rehearing is premature. The pleading will instead be treated as an appeal of the FY 2001 annual charges bills, as provided for in Section 11.20 of the Commission's regulations, 18 C.F.R. 11.20, with respect to administrative annual charges.

David P. Boergers,

Secretary

[FR Doc. 01–23386 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

[1] *See* City of Idaho Falls, Idaho, *et al.*, 93 FERC ¶ 61,145 (2000); City of Idaho Falls, Idaho, *et al.*, 95 FERC ¶ 61,126 (2001), and City of Tacoma, Washington, *et al.*, 95 FERC ¶ 61,145 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–593–000]

Destin Pipeline Company, L.L.C., Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Destin Pipeline Company, L.L.C. (Destin) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective October 1, 2001:

Fifth Revised Sheet No. 5
Fourth Revised Sheet No. 6
Fourth Revised Sheet No. 7

Destin states that the above-referenced tariff sheets are being filed pursuant to Section 23 of the General Terms and Conditions of Destin's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001.

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 on or before September 20, 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. 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. 01–23397 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–494–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

September 13, 2001.

Take notice that on September 6, 2001, Dominion Transmission, Inc. (''DTI'') filed as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, with an effective date of September 1, 2001:

Substitute First Revised Sheet No. 1162

DTI states that the purpose of this filing is to comply with the Commission's Letter Order issued August 30, 2001, in Docket No. RP01–494. That Letter Order approved DTI's tariff proposal to adopt the Texas Eastern policy subject to DTI filing a change to its proposed Section 25.2 of the General Terms and Conditions of its FERC Gas Tariff. The compliance filing makes the required change.

DTI states that copies of its letter of transmittal and enclosures are being mailed to its customers and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–23389 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–034]

Dominion Transmission, Inc., Notice of Compliance Filing

September 13, 2001.

Take notice that on September 6, 2001, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Substitute Third Revised Sheet No. 1404 to correct two typographical errors on Substitute Third Revised Sheet No. 1404, filed on August 29, 2001 in Docket No. RP96–383–033.

DTI states that copies of corrected tariff sheet have been sent to DTI's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–23404 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–032]

Dominion Transmission, Inc.; Notice of Negotiated Rate

September 14, 2001.

Take notice that on August 24, 2001, Dominion Transmission, Inc. (DTI) tendered for filing the following tariff sheets for disclosure of a recently negotiated transaction with Cabot Oil & Gas Marketing Company:

Original Sheet No. 1417
Original Sheet No. 1418
Sheet Nos. 1419–1499

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions. DTI also states that copies of this filing are available for public inspection during regular business hours, at DTI principal offices in Clarksburg, West Virginia.

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 on or before September 19, 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. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23515 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–590–000]

Eastern Shore Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 1, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets listed in Appendix A to the filing, with a proposed effective date of September 1, 2001.

ESNG states that the purpose of this instant filing is to track rate changes attributable to a storage service purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's respective Rate Schedules GSS and LSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–23394 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–599–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

September 14, 2001.

Take notice that on September 11, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second

Revised Volume No. 1, certain revised tariff sheets in the above captioned docket bear a proposed effective date of October 1, 2001.

ESNG states that the purpose of this instant filing is to track rate changes attributable to a storage service purchase from Columbia Gas Transmission (Columbia) under its Rate Schedule FSS. The costs of the above referenced storage service comprise the rates and charges payable under ESNG's respective Rate Schedule CFSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be file 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 Commission's web site 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23516 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–591–000]

Garden Bank Gas Pipeline, LLC; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Fourth Revised Sheet No. 6

GBGP states that the above-referenced tariff sheet is being filed pursuant to Section 25 of the General Terms and Conditions of GBGP's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001. GBGP respectfully requests waiver of the 30-day notice requirement pursuant to Section 154.207 of the Commission's regulations so that the tariff sheet can become effective October 1, 2001.

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 on or before September 20, 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. 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. 01–23395 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–592–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff Second Revised Volume No. 1 the following, with an effective date of October 1, 2001:

Twelfth Revised Sheet No. 7

Great Lakes states that this tariff sheet is being filed to reflect the new ACA rate to be charged pursuant to the Annual Charges Adjustment Clause provisions established by the Commission in Order No. 472 issued May 29, 1987, as revised. Great Lakes is also requesting waiver of the requirements under § 154.207 that all proposed changes in FERC gas tariffs be filed not less than thirty (30) days prior to the proposed effective date of the revised tariff sheets, citing the time required to resolve a data discrepancy.

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 on or before September 20, 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. 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. 01–23396 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–30–000]

Mid Louisiana Gas Company and Enbridge Pipelines (Midla) Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 7, 2001, Mid Louisiana Gas Company (Mid Louisiana) and Enbridge Pipelines (Midla) Inc. (Midla) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Second Revised Volume No. 2 to reflect a corporate name change to become effective on October 1, 2001. A complete listing of the tariff sheets filed are shown on Appendix A, to the filng.

Mid Louisiana and Midla state that copies of its transmittal letter and appendices have been mailed to all affected 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. 01–23383 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–31–000]

Midcoast Interstate Transmission, Inc. and Enbridge Pipelines (AlaTenn) Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 7, 2001, Midcoast Interstate Transmission, Inc. (MIT) and Enbridge Pipelines (AlaTenn) Inc. (AlaTenn) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 to reflect a corporate name change to become effective on October 1, 2001. A complete listing of the tariff sheets filed are shown on Appendix A, to the filing.

MIT and AlaTenn state that copies of its transmittal letter and appendices have been mailed to all affected 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. 01–23384 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–598–000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 7, 2001, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective October 8, 2001:

Sixth Revised Sheet Number 52
Second Revised Sheet Number 110B

Midwestern states that the purpose of this filing is to revise Midwestern's FERC Gas Tariff to allow Midwestern the ability to hold off-system capacity without prior Commission approval. By this filing, Midwestern is adding Section XXXIII, Off-System Services, to its General Terms and Conditions. Midwestern also requests that the Commission grant Midwestern a waiver of the ''shipper must hold title to the gas'' policy.

Midwestern states that copies of this filing have been sent to all of Midwestern's contracted shippers 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. 01–23402 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–30–000]

Midwestern Gas Transmission Company; Notice of Filing

September 14, 2001.

Take notice that on August 31, 2001, Midwestern Gas Transmission Company filed revised standards of conduct under Order No. 637.[1]

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214 (2001)). All such motions to intervene or protest should be filed on or before 15 days from issuance. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23513 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

[1] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, 63 FR 10156 (February 25, 2000), FERC Statutes and Regulations 31,091 (February 9, 2000) (Order No. 637) and Order No. 637–A, FERC Statutes and Regulations 31,099 (May 19, 2000.)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–594–000]

Mississippi Canyon Gas Pipeline, LLC; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Mississippi Canyon Gas Pipeline, LLC (MCGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Third Revised Sheet No. 6

MCGP states that the above-referenced tariff sheet is being filed pursuant to Section 25 of the General Terms and Conditions of MCGP's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001. MCGP respectfully requests waiver of the 30-day notice requirement pursuant to Section 154.207 of the Commission's regulations so that the tariff sheet can become effective October 1, 2001.

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 on or before September 20, 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. 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. 01–23398 Filed 9–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–589–000]

Mississippi River Transmission Corp.; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 6, 2001, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to be effective on October 1, 2001:

Forty-Second Revised Sheet No. 5
Forty-Second Revised Sheet No. 6
Thirty-Ninth Revised Sheet No. 7

MRT states that the purpose of this filing is to establish the revised Annual Charge Adjustment (ACA) rate effective October 1, 2001 for MRT's transportation rates. The ACA rate is designed to recover the charge assessed by the Commission pursuant to Part 382 of the Commission's Regulations.

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 on or before September 20, 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. 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. 01–23393 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–587–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 4, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Third Revised Sheet No. 414, to be effective November 1, 2001.

Natural states that the purpose of this filing is to update its list of non-conforming agreements. Also, Natural tenders for filing with the Federal Energy Regulatory Commission copies of the Firm Transportation Rate Discount Agreement and the associated Rate Schedule FTS service amendment with UtiliCorp United Inc.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–23391 Filed 9–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–595–000]

Nautilus Pipeline Company, L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Fifth Revised Sheet No. 9

Nautilus states that the above-referenced tariff sheet is being filed pursuant to Section 35 of the General Terms and Conditions of Nautilus's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001. Nautilus respectfully requests waiver of the 30-day notice requirement pursuant to Section 154.207 of the Commission's regulations so that the tariff sheet can become effective October 1, 2001.

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 on or before September 20, 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. 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. 01–23399 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–76–000 and 002 and Docket Nos. RP01–396–000 and 001 (Not Consolidated)]

Northern Natural Gas Company; Notice of Technical Conference

September 13, 2001.

On November 22, 2000, the Commission issued an order accepting and suspending Northern Natural Gas Company's (Northern Natural) filing, in Docket No. RP01–76–000, to adjust its rates pursuant to Section 32(K) of its tariff, due to changes in its System Levelized Account (SLA). On May 31, 2001, the Commission issued an order in Docket No. RP01–396–000 accepting and suspending a second SLA filing by Northern Natural. On August 1, 2001, the Commission issued an order on rehearing of the May 31 order directing that a technical conference be held to address issues raised by the filing.

Take notice that a technical conference will be held on Wednesday, October 4, 2001 at 9:30 a.m., in a room to be designated, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested parties and Staff are permitted to attend. Participants should be prepared to discuss tariff, accounting and rate issues raised in both proceedings, information submitted by Northern Natural in Docket Nos. RP01–76–002 and RP01–396–000, as well as any other concerns raised in protests and comments.

The above schedule may be changed as circumstances warrant.

David P. Boergers,

Secretary.

[FR Doc. 01–23403 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–588–000]

Ozark Gas Transmission, L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 5, 2001, Ozark Gas Transmission, L.L.C. (Ozark) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 13, to be effective October 1, 2001.

Ozark states that the purpose of its filing is to reflect a decrease in the ACA rate to $0.0021 per Dth from $0.0022 per Dth effective October 1, 2001. Ozark further states that Article 11 of the General Terms and Conditions of Ozark's FERC Gas Tariff allows it to file to track changes in the ACA surcharge.

Ozark further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 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. 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. 01–23392 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1353–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35.15 and 385.216 of the Commission's Rules and Regulations, a notice of cancellation of its February 28, 2001 filing of a Network Integration Transmission Service Agreement and a Network Operating Agreement with Utah Associated Municipal Power Systems and notice of withdrawal of the remainder of its February 28, 2001 filing.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23376 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1354–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35.15 and 385.216 of the Commission's Rules and Regulations, a notice of cancellation of its February 28, 2001 filing of a Network Integration Transmission Service Agreement and a Network Operating Agreement with Utah Municipal Power Agency and notice of withdrawal of the remainder of its February 28, 2001 filing.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23377 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1355–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35.15 and 385.216 of the Commission's Rules and Regulations, a notice of cancellation of its February 28, 2001 filing of a Network Integration Transmission Service Agreement, a Network Operating Agreement and a Long-Term Firm Point-to-Point Transmission Agreement with Deseret Generation and Transmission Cooperative (Deseret) and notice of withdrawal of the remainder of its February 28, 2001 filing.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23378 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3029–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp, tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35 of the Commission's Rules and Regulations, an Amended and Restated Transmission Service and Operating Agreement with Utah Associated Municipal Power Systems (UAMPS).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23380 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3030–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp, tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35 of the Commission's Rules and Regulations, an Amended and Restated Transmission Service and Operating Agreement with Utah Municipal Power Agency (UMPA).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23381 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3031–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp, tendered for filing with the Federal Energy Commission (Commission), in accordance with 18 CFR 35 of the Commission's Rules and Regulations, an Amended and Restated Transmission Service and Operating Agreement with Deseret Generation and Transmission Cooperative (Deseret).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23382 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–402–001]

Paiute Pipeline Co.; Notice of Compliance Filing

September 13, 2001.

Take notice that on September 10, 2001, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets:

Sixth Revised Sheet No. 63C
Third Revised Sheet No. 65
First Revised Sheet No. 65A
First Revised Sheet No. 66
First Revised Sheet No. 80
Second Revised Sheet No. 81
First Revised Sheet No. 83
First Revised Sheet No. 84
First Revised Sheet No. 87
First Revised Sheet No. 88
First Revised Sheet No. 89A
Fourth Revised Sheet No. 110
Fourth Revised Sheet No. 111
Fourth Revised Sheet No. 112
Third Revised Sheet No. 113
Second Revised Sheet No. 113A
Third Revised Sheet No. 113B
Second Revised Sheet No. 113C
First Revised Sheet No. 126

Paiute indicates that the purpose of the instant filing is to comply with the directives of the Commission's order issued on July 30, 2001 in Docket No. RP00–402–000, concerning Paiute's compliance with Order Nos. 637, 587–G and 587–L.

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. 01–23388 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–501–001]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

September 13, 2001.

Take notice that on September 7, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Eighth Revised Sheet No. 144, to include by reference certain Gas Industry Standards Board (GISB) standards and a definition, as directed by the Commission in its August 24, 2001 Letter Order in this docket.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''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. 01–23390 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT01–5–000]

Pine Needle LNG Company, LLC; Notice of Compliance Filing

September 14, 2001.

Take notice that on August 31, 2001, Pine Needle LNG Company, LLC. (Pine Needle) tendered for filing a revised Code of Conduct and First Revised Sheet No. 88 pursuant to the marketing affiliate regulations as modified in Order No. 637. Pine Needle requests that the Commission order the tariff sheet be made effective on October 1, 2001.

Pine Needle states that copies of its filing has been served to all affected customers, interested state commissioners and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 21, 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. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23517 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2460–000]

PSEG Lawrenceburg Energy Company, LLC; Notice of Filing

September 13, 2001.

Take notice that on August 21, 2001, PSEG Lawrenceburg Energy Company LLC (PSEG Lawrenceburg) tendered for filing a Compliance Filing Regarding Order Granting Rate Approval and Granting Certain Waivers and Blanket Approval. This filing is submitted in compliance with a letter order issued by the Federal Energy Regulatory Commission (Commission) on August 16, 2001, wherein the Commission accepted for filing PSEG Lawrenceburg's rate schedule for the wholesale sale of electric energy and capacity at market-based rates, subject to PSEG Lawrenceburg making one revision to its rate schedule.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23379 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–596–000]

Questar Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Questar Pipeline Company tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to be effective October 1, 2001:

First Revised Volume No. 1

Twenty-First Revised Sheet No. 5
Twelfth Revised Sheet No. 6

Original Volume No. 3

Twenty-Ninth Revised Sheet No. 8

Questar states that this filing incorporates into its storage and transportation rates the annual charge adjustment (ACA) unit rate of $0.00215 per Dth.

Questar states that copies of this filing were served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

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 on or before September 20, 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. 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. 01–23400 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–597–000]

Stingray Pipeline Company, L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Stingray Pipeline Company, L.L.C. (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Eleventh Revised Sheet No. 5

Stingray states that the above-referenced tariff sheet is being filed pursuant to Section 32 of the General Terms and Conditions of Stingray's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001. Stingray respectfully requests waiver of the 30-day notice requirement pursuant to Section 154.207 of the Commission's regulations so that the tariff sheet can become effective October 1, 2001.

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 on or before September 20, 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. 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. 01–23401 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–29–000]

Texas Eastern Transmission, L.P.; Notice of Compliance Report

September 14, 2001.

Take notice that on August 31, 2001, Texas Eastern Transmission, L.P., tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, its report of recalculated Operational Segment Capacity Entitlements to become effective November 1, 2001.

Texas Eastern states that the purpose of the filing is to make its report pursuant to Section 9.1 of the General Terms and Conditions of its FERC Gas tariff, Seventh Revised Volume No. 1 of recalculated November 1, 2001 Operational Segment Capacity Entitlements, along with supporting documentation explaining the basis for changes.

Texas Eastern states that copies of the filing were served on all affected customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 21, 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. 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 Commission's web site 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23512 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–31–000]

Transcontinental Gas Pipeline Corporation; Notice of Filing

September 14, 2001.

Take notice that on August 31, 2001, Transcontinental Gas Pipeline Corporation filed revised standards of conduct under Order No. 637.[1]

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214 (2001)). All such motions to intervene or protest should be filed on or before 15 days from issuance. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23514 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT01–6–000]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

September 14, 2001.

Take notice that on August 31, 2001, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a revised Code of Conduct and Eighth Revised Sheet No. 344 pursuant to the marketing affiliate regulations as modified in Order No. 637. Transco requests that the Commission order the tariff sheet be made effective on October 1, 2001.

Transco states that copies of its filing has been served to all affected customers, interested state commissioners and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 21, 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. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23518 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

[1] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, 63 FR 10156 (February 25, 2000), FERC Statutes and Regulations 31,091 (February 9, 2000) (Order No. 637) and Order No. 637–A, FERC Statutes and Regulations 31,099 (May 19, 2000.)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–308–000, *et al.*]

Camden Cogen, L.P., *et al.*; Electric Rate and Corporate Regulation Filings

September 13, 2001.

Take notice that the following filings have been made with the Commission:

1. Camden Cogen, L.P.

[Docket No. EG01–308–000]

Take notice that on September 10, 2001, Camden Cogen, L.P. (Camden Cogen), a Delaware limited partnership with its principal place of business in Houston, Texas, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale

generator status pursuant to Part 365 of the Commission's regulations.

Camden Cogen owns and operates an approximate 152 MW natural gas-fired, combined-cycle, independent power production facility in Camden, New Jersey (the Facility). Electric energy produced by the Facility will be sold by Camden Cogen to the wholesale power market in the PJM.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. South Point Energy Center, LLC

[Docket No. EG01–309–000]

Take notice that on September 10, 2001, South Point Energy Center, LLC (South Point) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

South Point, a Delaware limited liability company, proposes to lease an electric generating facility and sell the output at wholesale to an affiliated power marketer and other purchasers. The facility is a 530 MW natural gas fired, combined cycle generating facility, which is located in Mohave County, Arizona.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Reliant Energy Seward, LLC

[Docket No. EG01–310–000]

Take notice that on September 10, 2001, Reliant Energy Seward, LLC (Reliant Energy Seward) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for a determination of exempt wholesale generator status, pursuant to part 365 of the Commission's regulations.

Reliant Energy Seward is a Delaware limited liability company and proposes to acquire the existing 198-megawatt Seward generating facility located in East Wheatfield Township, Pennsylvania. The Seward generating facility presently is owned by Reliant Energy Seward's affiliate, Reliant Energy Mid-Atlantic Power Holdings, LLC. Reliant Energy Seward states that it will be engaged directly, or indirectly through one or more affiliates as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning an eligible facility, and selling electric energy at wholesale.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Cogen Technologies NJ Venture

[Docket No. EG01–312–000]

Take notice that on September 10, 2001, Cogen Technologies NJ Venture (NJ Venture), a New Jersey joint venture with its principal place of business in Houston, Texas, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

NJ Venture owns and operates an approximate 177 MW natural gas-fired, combined-cycle, independent power production facility in Bayonne, New Jersey (the Facility). Electric energy produced by the Facility will be sold by NJ Venture to the wholesale power market in the PJM.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Reliant Energy Hunterstown, LLC

[Docket No. EG01–311–000]

Take notice that on September 10, 2001, Reliant Energy Hunterstown, LLC (Reliant Energy Hunterstown) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for a determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Reliant Energy Hunterstown is a Delaware limited liability company and proposes to acquire the existing 71-megawatt Hunterstown generating facility located in Straban Township, Pennsylvania. The Hunterstown generating facility presently is owned by Reliant Energy Hunterstown's affiliate, Reliant Energy Mid-Atlantic Power Holdings, LLC. Reliant Energy Hunterstown states that it will be engaged directly, or indirectly through one or more affiliates as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning an eligible facility, and selling electric energy at wholesale.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. New York Independent System Operator, Inc.

[Docket Nos. ER00–3591–009, ER00–1969–010, ER00–3038–005 and EL00–70–006]

Take notice that on September 6, 2001, the New York Independent System Operator, Inc. (NYISO) submitted a filing with the Federal Energy Regulatory Commission (Commission) in partial compliance to the Commission's July 16, 2001 Order issued in the above-captioned proceedings.

The NYISO has served a copy of this filing upon all parties that are included on the Commission's official service list in these proceedings.

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Alliance Companies—Ameren Corporation on behalf of: Union Electric Company; Central Illinois Public Service Company; American Electric Power Service Corporation on behalf of: Appalachian Power Company; Columbus Southern Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company; Wheeling Power Company; Consumers Energy and Michigan Electric Transmission Company; Exelon Corporation on behalf of: Commonwealth Edison Company; Commonwealth Edison Company of Indiana, Inc.; FirstEnergy Corp. on behalf of American Transmission Systems, Inc.; The Cleveland Electric Illuminating Company; Ohio Edison Company; Pennsylvania Power Company; The Toledo Edison Company; The Detroit Edison Company and International Transmission Company; Virginia Electric and Power Company; Illinois Power Company; Northern Indiana Public Service Company; The Dayton Power and Light Company

[Docket No. RT01–88–007]

Take notice that on September 10, 2001, Ameren Services Company (on behalf of Union Electric Company and Central Illinois Public Service Company), American Electric Power Service Corporation (on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company), Consumers Energy Company and Michigan Electric Transmission Company, The Dayton Power and Light

Company, Exelon Corporation (on behalf of Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.), FirstEnergy Corp. (on behalf of American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company), Illinois Power Company, Northern Indiana Public Service Company, and Virginia Electric and Power Company (collectively, the Alliance Companies), tendered for filing with the Federal Energy Regulatory Commission (Commission) proposed substitute tariff sheets to reflect corrections to their filing made on August 31, 2001, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2000), and Section 35.13 of the Commission's regulations, 18 CFR 35.13.

The Alliance Companies request that the proposed substitute tariff sheets become effective on December 15, 2001, Day 1 of operations of the Alliance RTO.

Comment date: October 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Ameren Energy Marketing Company

[Docket Nos. ER01–7–002 and ER01–1715–001]

Take notice that on September 7, 2001, Ameren Energy Marketing Company (AEM) tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC), submitted as First Revised Service Agreement No. 1 under its Rate Schedule FERC No. 1 a revised version of the Electric Services Agreement (ESA) between AEM and Soyland Power Cooperative, Inc. to conform with the Commission's order in Ameren Energy Marketing Co., Docket Nos. ER01–7–001 and ER01–1715–000 (Aug. 8, 2001).

Copies of this filing were served upon Soyland as well as on all parties that have intervened in these proceedings.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER01–1659–000]

Take notice that on September 10, 2001, Pacific Gas and Electric Company (PG&E), tender for filing with the Federal Energy Regulatory Commission, a Motion to Withdraw Application under Order No. 614.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Tampa Electric Company

[Docket No. ER01–1896–002]

Take notice that on September 7, 2001, Tampa Electric Company (Tampa Electric) refiled with the Federal Energy Regulatory Commission (Commission), its transmission service agreements with Mulberry Phosphates, Inc. (Mulberry), Cargill Fertilizer, Inc. (Cargill), and Auburndale Power Partners, Limited Partnership (Auburndale), and interconnection agreements with Cargill and Auburndale, in the format required by the Commission's Order No. 614. The filing was made in compliance with the Commission's letter order dated May 30, 2001, in Docket No. ER01–1896–000, and replaces the compliance filing in Docket No. ER01–1896–001, which was withdrawn.

Copies of the compliance filing have been served on the persons designated on the official service list in Docket Nos. ER01–1896–000 and ER01–1896–001, Mulberry, Cargill, Auburndale, and the Florida Public Service Commission.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER01–1951–002]

Take notice that on September 7, 2001, Entergy Services, Inc. (Entergy Services), as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing with the Federal Energy Regulatory Commission (Commission), certain corrections to the 2001 annual rate redetermination for Entergy Services' Open Access Transmission Tariff.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Duke Energy Vermillion, LLC

[Docket No. ER01–3018–000]

Take notice that on September 6, 2001, pursuant to Section 205 of the Federal Power Act and Section 35.15(a), 18 CFR 35.15 (a) of the Federal Energy Regulatory Commission's (Commission) regulations, Duke Energy Vermillion, LLC (Duke Vermillion) filed with the Commission a Notice of Cancellation of the Power Purchase Agreement by and between Duke Energy Trenton, LLC, CinCap VIII, LLC and Duke Energy Vermillion, LLC, dated as of September 30, 1999, as amended (designated as Service Agreement No. 1 under Duke Vermillion's FERC Electric Tariff, Original Volume No. 1).

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Illinois Power Company

[Docket No. ER01–3019–000]

Take notice that on September 6, 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission), two revised service agreements entered into with Exelon Generation Company, LLC (EGC) pursuant to Illinois Power's Open Access Transmission Tariff.

Illinois Power requests an effective date of September 1, 2001 for the revised service agreements and accordingly seeks a waiver of the Commission's notice requirement. Illinois Power has mailed a copy of this filing to EGC.

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Virginia Electric and Power Company

[Docket No. ER01–3020–000]

Take notice that on September 7, 2001, Virginia Electric and Power Company (the Company), tendered for filing with the Federal Energy Regulatory Commission (Commission), Service Agreement by Virginia Electric and Power Company to El Paso Merchant Energy, L.P., designated as Service Agreement No. 6, under the Company's short-form market-based rate tariff, FERC Electric Tariff, Original Volume No. 6.

The foregoing Service Agreement is tendered for filing under the Company's short-form market-based rate tariff, FERC Electric Tariff, Original Volume No. 6, effective on June 15, 2000. The Company requests an effective date of August 15, 2001.

Copies of the filing were served upon El Paso Merchant Energy, L.P., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Pinnacle West Capital Corporation

[Docket No. ER01–3021–000]

Take notice that on September 7, 2001, Pinnacle West Capital Corporation tendered for filing with the Federal Energy Regulatory (Commission), a Service Agreement under the Western Systems Power Pool Agreement for service to Sierra Pacific Power Company.

A copy of this filing has been served on Sierra Pacific Power Company.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Cinergy Services, Inc.

[Docket No. ER01–3022–000]

Take notice that on September 7, 2001, Cinergy Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission), an unexecuted Interconnection Agreement by and between Cinergy Services, Inc. (Cinergy) and Sugar Creek Energy, LLC (Sugar Creek Energy).

The unexecuted Interconnection Agreement between the parties provides for the interconnection of a generating station with the transmission system of PSI Energy, Inc. (PSI), a Cinergy utility operating company, and further defines the continuing responsibilities and obligations of the parties with respect thereto. Cinergy states that it has served a copy of its filing upon the Indiana Utility Regulatory Commission and Sugar Creek Energy.

Cinergy requests an effective date of September 6, 2001 for the unexecuted Interconnection Agreement.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Hinson Power Company, LLC formerly Hinson Power Company, Inc.

[Docket No. ER01–3023–000]

Take notice that on September 6, 2001, Hinson Power Company, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission), a Notice of Succession pursuant to 18 CFR 35.16 and 131.51 of the Commission's regulations. Hinson Power Company, Inc. (WGSI Delaware) has changed its name to Hinson Power Company, LLC and effective August 7, 2001, succeeded to Hinson Power Company, Inc.'s Rate Schedule FERC No. 1, Market-Based Rate Schedule filed in Docket No. ER95–1314–000, which was effective August 30, 1995.

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Duke Energy Trenton, LLC

[Docket No. ER01–3024–000]

Take notice that on September 6, 2001, pursuant to Section 205 of the Federal Power Act and Section 35.15(a), 18 CFR 35.15 (a) of the Federal Energy Regulatory Commission's (Commission) regulations, Duke Energy Trenton, LLC (Duke Trenton) filed with the Commission a Notice of Cancellation of the Master Electric Energy and Ancillary Service Sales Agreement by and between Duke Energy Trenton, LLC and Duke Energy Trading and Marketing, LLC (designated as Service Agreement No. 2 under Duke Trenton's FERC Electric Tariff, Original Volume No. 1.

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Duke Energy Corporation

[Docket No. ER01–3025–000]

Take notice that on September 7, 2001, Duke Energy Corporation (Duke) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement with DTE Energy Trading, Inc. for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on August 8, 2001. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. American Electric Power Service Corporation

[Docket No. ER01–3026–000]

Take notice that on September 7, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC), an executed Facilities Agreement between Ohio Power Company and Fremont Energy Center LLC. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000. A copy of the filing was served upon the Ohio Public Utilities Commission.

AEP requests an effective date of November 6, 2001.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Central Power and Light Company

[Docket No. ER01–3027–000]

Take notice that on September 10, 2001, Central Power and Light Company (CLP) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Interconnection Agreement, dated August 9, 2001, between CPL and Small Hydro of Texas Inc. (SMTX).

CLP requests an effective date of November 6, 2001. Copies of this filing has been served upon SMTX and the Texas Public Utility Commission.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Western Resources, Inc.

[Docket No. ER01–3028–000]

Take notice that on September 7, 2001, Western Resources, Inc. (WR) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement between WR and Dayton Power and Light (DPL). WR states that the purpose of this agreement is to permit DPL to take service under WR's Market Based Power Sales tariff on file with the Commission. This agreement is proposed to be effective August 8, 2001.

Copies of this filing were served upon DPL and the Kansas Corporation Commission.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Virginia Electric and Power Company

[Docket No. ER01–3032–000]

Take notice that on September 10, 2001, Virginia Electric and Power Company, doing business as Dominion Virginia Power, tendered for filing with the Federal Energy Regulatory Commission (Commission), an unexecuted Generator Interconnection and Operating Agreement (Interconnection Agreement) with Tenaska Virginia Partners, L.P. (Tenaska). The Interconnection Agreement sets forth the terms and conditions under which Dominion Virginia Power will provide interconnection service for Tenaska's yet to be built generating facility.

Dominion Virginia Power respectfully requests that the Commission set an effective date of November 9, 2001 for the Interconnection Agreement.

Copies of the filing were served upon Tenaska Virginia Partners, L.P. and the Virginia State Corporation Commission.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Duke Energy Oakland, LLC

[Docket No. ER01–3034–000]

Take notice that on September 10, 2001, Duke Energy Oakland (DEO) tendered for filing with the Federal Energy Regulatory Commission (Commission), two sets of revisions to Schedules A, B, C, and D of its Reliability Must Run Service Agreement (RMR Agreement) with the California Independent System Operator to reflect,

and allow DEO to recover, the costs of DEO's rehabilitation and operation of a second engine of Unit No. 1 of DEO's Oakland Generating Facility. DEO requests effective dates of October 1, 2000, and January 1, 2001, respectively, for its two revisions. DEO also submitted in support of its Schedule revisions, ''Terms of Agreement Relating To Duke Energy Oakland, LLC's Rehabilitation Of The Second Engine Of Unit 1 Of The Oakland Generating Facility,'' wherein DEO, the CAISO, and Pacific Gas and Electric Company (PG&E) expressly agreed to the revisions submitted by DEO and the effective dates of the same.

Copies of the filing have been served upon the CAISO, PG&E and the California Public Utilities Commission.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Reliant Energy Seward, LLC and Reliant Energy Hunterstown, LLC

[Docket Nos. ER01–3035–000 and ER01–3036–000]

Take notice that on September 10, 2001, Reliant Energy Seward, LLC (Reliant Energy Seward) and Reliant Energy Hunterstown, LLC (Reliant Energy Hunterstown) (collectively, Applicants) tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC), pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d (1994), Part 35 of the Commission's regulations, 18 CFR Part 35 (2000), and Rule 205 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 (2000), a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting each Applicant's FERC Electric Tariff Original Volume No. 1 authorizing Applicant to make sales at market-based rates.

Applicants intend to sell electric energy, capacity and ancillary services at wholesale. In transactions where Applicants sell electric power, they propose to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Each Applicant's Tariff provides for the sale of energy, capacity and ancillary services at agreed prices.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Central Power and Light Company

[Docket No. ER01–3037–000]

Take notice that on September 10, 2001, Central Power and Light Company (CPL) submitted for filing with the Federal Energy Regulatory Commission (Commission), a notice of cancellation of its service agreement with Medina Electric Cooperative, Inc. (Medina), designated Service Agreement No. 9 under CPL's Tariff No. 1, under which CPL supplies wholesale electric power service to Medina.

CPL requests that the service agreement be canceled effective October 1, 2001, and, accordingly, seeks waiver of the Commission's notice requirements. CPL states that the filing has been served on Medina and on the Public Utility Commission of Texas.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Wisconsin Electric Power Company

[Docket No. ER01–3038–000]

Take notice that on September 10, 2001, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing with the Federal Energy Regulatory Commission (Commission), an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with EnergyUSA—TPC Corp. Wisconsin Electric respectfully requests an effective date of September 1, 2001 to allow for economic transactions. Wisconsin Electric requests waiver of any applicable notice requirements to allow for the requested effective date as specified.

Copies of the filing have been served on EnergyUSA—TPC Corp., the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Consumers Energy Company

[Docket No. ER01–3039–000]

Take notice that on September 10, 2001, Consumers Energy Company (Consumers) tendered for filing with the Federal Energy Regulatory Commission, a Service Agreement with EnergyUSA-TPC Corp., (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales. Consumers requested that the Agreement be allowed to become effective as of August 1, 2001.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23510 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2385–002 New York]

Finch, Pruyn & Company, Inc.; Notice of Availability of Final Environmental Assessment

September 13, 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 the application for new license for the Glens Falls Hydroelectric Project, located on the Hudson River in Warren and Saratoga Counties, New York, and has prepared a Final Environmental Assessment (FEA) for the project.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the FEA is on file with the Commission and is available for public inspection. The FEA may also be

viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link—select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 01–23405 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

September 13, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Minor License.

b. *Project No.:* 2086–035.

c. *Date Filed:* August 30, 2001.

d. *Applicant:* Southern California Edison.

e. *Name of Project:* Vermillion Valley Project.

f. *Location:* On Mono Creek in Fresno County, near Shaver Lake, California. The project affects federal lands in the Sierra National Forest, covering a total of 2,202 acres.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Thomas J. McPheeters, Manager, Northern Hydro Region, Southern California Edison Company, 54205 Mountain Poplar Road, P.O. Box 100, Big Creek, California 93605, (559) 893–3646.

i. *FERC Contact:* Jim Fargo, (202) 219–2848 or *James.Fargo@FERC.fed.us.*

j. *Deadline for filing additional study requests:* October 30, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Additional study requests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. The existing Vermillion Project consists of: (1) a 4,234-foot-long earth-fill dam; (2) Lake Edison, with a 125,035 acre-foot storage capacity at 7,642 feet; (3) a service spillway at the left abutment with a single manually operated radial gate 15 feet wide by 8 feet high, and an auxiliary spillway at the right abutment with an ungated chute discharging into an ungated channel; (4) a man-made outlet channel extending 1,300 feet to Mono Creek; and (5) a 3-kW Pelton-wheel turbine located in the outlet structure used to recharge batteries in the valve house.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link—select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the California State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of application has been accepted for filing
Notice of NEPA Scoping
Notice of application is ready for environmental analysis
Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document
Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

David P. Boergers,

Secretary.

[FR Doc. 01–23385 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

September 13, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 362–004.

c. *Date filed:* June 1, 2001.

d. *Applicant:* Ford Motor Company.

e. *Name of Project:* Ford Hydroelectric Project.

f. *Location:* On the Mississippi River, in the city of St. Paul, Ramsey County, Minnesota, at the U.S. Army Corps of Engineers' Lock and Dam No.1. The project is partially located on federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* George Waldow, HDR Engineering, Inc., 6190 Golden Hills Drive, Minneapolis, Minnesota 55416, or telephone (763) 591–5485.

i. *FERC Contact:* Sergiu Serban, E-mail address *sergiu.serban@ferc.fed.us,* or telephone (202) 501–6935.

j. Deadline for filing motions to intervene and protests is 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. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date.

All filings must (1) bear in all capital letters the title ''PROTEST'' or

''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant.

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 on 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. *Status of environmental analysis:* This application has been accepted, but it is not ready for environmental analysis at this time. Therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions. When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

l. *Description of the Project:* The proposed project would utilize the U.S. Army Corps of Engineers' Lock and Dam No. 1 and would consist of the following facilities: (1) An existing powerhouse integral with the dam having a total installed capacity of 18,000 kilowatts; and (2) appurtenant facilities. The average annual generation is estimated to be 97 gigawatthours.

m. *Locations of the applications:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

David P. Boergers,

Secretary.

[FR Doc. 01–23387 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

September 14, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may 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).

Exempt

1. CP98–150–000, 8–29–01, Joanne Wachholder (to Rick Benas)
2. CP01–260–000, 9–7–01, John Wisniewski
3. Project No. 2145–041, 9–7–01, Nancy Kochan
4. Project No. 2042–000, 9–7–01, Susan Pengilly Neitzel
5. Project No. 2016–000, 9–10–01, Allyson Brooks (signature page)
6. Project No. 2778–000, 9–10–01, Frank Winchell
7. CP98–150–000, 9–10–01, John Zekoll

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23511 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7058–3]

National Drinking Water Advisory Council; Request for Nominations

AGENCY: Environmental Protection Agency.

The U.S. Environmental Protection Agency (EPA) invites all interested persons to nominate qualified individuals to serve a three-year term as members of the National Drinking Water Advisory Council. This Advisory Council was established to provide practical and independent advice, consultation and recommendations to the Agency on the activities, functions and policies related to the implementation of the Safe Drinking Water Act as amended. The Council consists of fifteen members, including a Chair. Five members represent the general public; five members represent appropriate state and local agencies concerned with water hygiene and public water supply; and five members represent private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. On December 15 of each year, five members complete their appointment. Therefore, this notice solicits names to fill five vacancies, with

appointed terms ending on December 15, 2004.

Any interested person or organization may nominate qualified individuals for membership. Nominees should be identified by name, occupation, position, address and telephone number. To be considered, all nominations must include a current resume providing the nominee's background, experience and qualifications.

Persons selected for membership will receive compensation for travel and a nominal daily compensation while attending meetings. The Council holds two face-to-face meetings each year, generally in the Spring and Fall. Additionally, members may be asked to serve on one of the Council's working groups that are formed each year to assist the EPA in major program issue development. These meetings are held approximately four times a year, with two meetings by conference call.

Nominations should be submitted to Janet Pawlukiewicz, Designated Federal Officer, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (4601), 1200 Pennsylvania Avenue, NW., Ariel Rios Building, Washington, DC 20460, no later than October 30, 2001. The Agency will not formally acknowledge or respond to nominations. E-Mail your questions to *pawlukiewicz.janet@epa.gov* or call 202/260–9194.

Janet Pawlukiewicz,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 01–23475 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 7058–1]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104; ''Announcement of Proposal Deadline for the Competition for the FY 2002 Brownfields Cleanup Revolving Loan Fund Pilots''

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposal deadlines, revised guidelines.

SUMMARY: The United States Environmental Protection Agency (USEPA) will begin to accept proposals for the FY 2002 Brownfields Cleanup Revolving Loan Fund Pilots on September 20, 2001 (Catalogue of Federal Domestic Assistance Number: 66811). The Brownfields Cleanup Revolving Loan Fund pilots (each may be funded up to $1,000,000 per eligible entity) enable States, Indian Tribes, and political subdivisions to facilitate the cleanup and redevelopment of brownfields properties. The pilots test revolving loan fund models that assist with the coordination of public and private cleanup efforts. EPA expects to select up to 25 additional Brownfields Cleanup Revolving Loan Fund pilots by March 2002. The deadline for new proposals for the FY 2002 Brownfields Cleanup Revolving Loan Fund pilots is *November 15, 2001.* All proposals must be postmarked by USPS, or delivered at U.S. EPA Headquarters by other means, no later than November 15, 2001 and a duplicate copy sent to the appropriate U.S. EPA Regional Office.

The Brownfields Cleanup Revolving Loan Fund pilot cooperative agreements are selected on a competitive basis. Specific proposal requirements for applicants are set forth in the newly revised guidelines, entitled The Brownfields Economic Redevelopment Initiative: Proposal Guidelines for Brownfields Cleanup Revolving Loan Fund (August 2001). Applicants should follow the Guidelines in order to ensure the application they submit complies with those requirements. Details on how to obtain a copy of the Guidelines are set forth in the Addresses section.

To ensure a fair section process, evaluation panels consisting of EPA regional and Headquarters staff and other federal agency representatives will assess how well the proposals meet the selection criteria outlined in the Guidelines. Regional panels make recommendations to EPA senior management. Final award decisions are made by EPA senior management, and may take into account policy considerations such as geographic distribution of funds.

DATES: All proposals must be sent via registered or tracked (return receipt) mail and postmarked by USPS no later than November 15, 2001. Proposals must be sent to U.S. EPA Headquarters and a duplicate copy sent to the appropriate U.S. EPA Regional Office. Applicants may also send their proposals by commercial delivery service provided the proposals arrive at U.S. EPA Headquarters and the appropriate U.S. EPA Regional Office on or before close of business on November 15, 2001.

ADDRESSES: Mailing addresses for U.S. EPA Headquarters and U.S. EPA Regional Offices are provided in the Proposal Guidelines.

Obtaining Proposal Guidelines:

The Proposal Guidelines are available via the Internet at: *http://www.epa.gov/brownfields.*

Copies of the Proposal Guidelines will also be mailed upon request. Requests should be made by calling the U.S. EPA Call Center at the following numbers:

Washington, DC Metro Area at 703–412–9810

Outside Washington, DC Metro at 1–800–424–9346

TDD for the Hearing Impaired at 1–800–553–7672

In order to ensure that the Guidelines are received in time to be used in the preparation of the proposal, applicants should request a copy as soon as possible and in any event no later than seven (7) working days before the proposal due date. Applicants who request copies after that date might not receive the proposal guidelines in time to prepare and submit a responsive proposal.

FOR FURTHER INFORMATION CONTACT: The U.S. EPA's Office of Solid Waste and Emergency Response, Outreach and Special Projects Staff, Barbara Bassuener (202) 260–9347 or Jennifer Millett Wilbur (202) 260–6454.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Initiative is designed to empower states, local governments, communities, and other stakeholders involved in economic redevelopment to work together in a timely manner to prevent, assess, and safely cleanup brownfields in order to facilitate their sustainable reuse. As part of this Initiative, EPA may award cooperative agreements to States, political subdivisions (including cities, towns, counties), and Indian tribes to capitalize Brownfields Cleanup Revolving Loan Fund pilots. The purpose of these pilots is to test brownfields cleanup revolving loan fund models that direct special efforts toward facilitating coordinated public and private brownfields cleanup efforts.

In FY 2002, the EPA expects to select up to 25 new BCRLF pilots to be funded up to $1,000,000 per eligible entity by March 2002.

Eligible entities for FY 2002 BCRLF pilots will be states, political subdivisions, or federally recognized Indian Tribes that have established and can demonstrate progress already made in the assessment, cleanup, and revitalization of brownfields in their community, State or Tribe.

Coalition of eligible entities are permitted to apply, but a single entity must be identified as the applicant. Additionally, a letter of support from each coalition member must be included as an attachment.

Applicants must meet threshold criteria, i.e., the minimum criteria, in order to be considered for an award. All threshold criteria must be met. The following is a synopsis of the threshold criteria: (1) demonstrate the commitment of the eligible entity to the cleanup and revitalization of brownfields; and (2) demonstrate the ability and legal authority of the eligible entity to manage a revolving loan fund and environmental cleanups;

Those applicants that meet the threshold criteria will then be evaluated based on their responses to the evaluation criteria. Applicants should address all of the evaluation criteria. Responses to the evaluation criteria will be utilized to determine whether to make an award, and the amount of funds to be awarded. All evaluation criteria are equally important. There is no guarantee of an award. The following is a synopsis of the evaluation criteria: (1) Demonstrate the need of the eligible entity; (2) demonstrate the commitment of the eligible entity to making loans and to creative leveraging of EPA financial assistance; (3) demonstrate the benefits of the BCRLF loans to the local community; (4) demonstrate the long-term benefits and sustainability of the proposed BCRLF.

Funding for the Brownfields Cleanup Revolving Loan Fund pilots is authorized under Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA or Superfund), 42 U.S.C. 9604(d)(1).

Dated: September 14, 2001.

Linda Garczynski,

Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response.

[FR Doc. 01–23477 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7059–2]

U.S.-Mexico Border Grants; Request for Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency is requesting grant proposals from U.S. nongovernment organizations, municipalities, federally recognized tribes, communities, higher education facilities, and public schools for projects within the U.S.-Mexico Border Region, defined in the La Paz Agreement (1983) as that area within 100 km on either side of the inland and maritime U.S.-Mexico Border.

DATES: The original proposal plus one (1) copy must be mailed to the appropriate regional contact (see below) for the state in which the project will occur, no later than November 5, 2001. Proposals postmarked after that date will not be considered for funding. EPA expects to announce grant awards in January 2002. Applicants should anticipate project start dates no earlier than April 1, 2002. Grants will be managed separately by EPA staff in Region 6 and Region 9.

ADDRESSES: Grant Applications should be submitted to: Region 6 (TX, NM), Alfredo Coy, U.S.-Mexico Border Program (6PD), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733, Telephone: 214–665–2206; E-mail: <*coy.alfredo@epa.gov*>. Region 9 (CA, AZ): Dave Fege, Assistant Director, San Diego Border Liaison Office, U.S. Environmental Protection Agency, Region 9, 610 West Ash Street, San Diego, CA 92101, Telephone: 619–235–4765, E-mail: <*fege.dave@epa.gov*>.

FOR FURTHER INFORMATION CONTACT: Region 6 (TX, NM), Alfredo Coy, U.S.-Mexico Border Program (6PD), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733, Telephone: 214–665–2206; E-mail: *coy.alfredo@epa.gov.* Region 9 (CA, AZ): Dave Fege, Assistant Director, San Diego Border Liaison Office, U.S. Environmental Protection Agency, Region 9, 610 West Ash Street, San Diego, CA 92101, Telephone: 619–235–4765, E-mail: *fege.dave@epa.gov.*

Additional copies of this grant application can be obtained through the EPA Border Liaison Offices located in El Paso (915–533-7273); San Diego (619–235–4765); or call 1–800–334–0741.

SUPPLEMENTARY INFORMATION:

Introduction

This is a regionally managed grants program whose goals and objectives directly relate to and are linked with the Border XXI Program. Successful grant applications will meet objectives of the Border XXI Program as outlined in the U.S.-Mexico Border XXI Program Framework Document and/or the annual Implementation Plans (1996, 1997–1998, 1998, & 1999). The mission of the U.S.-Mexico Border XXI Program is to protect public health and natural resources, and encourage sustainable development along the U.S.-Mexico border. For purposes of this grants program, sustainable development is defined as ''conservation oriented social and economic development that emphasizes the protection and sustainable use of resources, while addressing both current and future needs, and present and future impacts of human actions as defined in the Border XXI environmental program developed by U.S. and Mexican authorities (for further information see the Border Environmental Cooperation Commission Project Certification Criteria). This definition is based on the internationally accepted sustainable development definition from the Rio Declaration on Environment and Development: development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

A total of $125,000 will be awarded in each of Regions 6 and 9.The maximum amount for any single grant award will be $25,000.

Entities receiving grants under this program are required to contribute a minimum 5% matching share (in dollars or in-kind goods/services). For example, to calculate the minimum matching share for federal funding of $25,000 use the following formula: $25,000 ÷ 95% = 26,315.79, subtract the grant amount from that figure, $26,315.79 − $25,000 = $1,315.79.

The resulting figure, $1,315.79, is applicant's matching share.

The U.S.-Mexico Border Grants Program strongly encourages partnering with community members, business, and government agencies to work cooperatively to identify and develop innovative, effective and efficient projects.

Eligibility

Applicants who are eligible to receive these grants include, but are not limited to, the following: U.S. county and city governments, U.S. councils of government, U.S. Indian tribes, U.S. community-based organizations (CBOs), and U.S. public schools and universities. Special consideration will be given to U.S. CBOs, public schools, community colleges, and nongovernment organizations who meet the above criteria and submit a complete proposal by the stated deadline.

No awards will be granted for the purchase of equipment for projects or for maintaining existing equipment.

Applicants must identify the environmental statute the project will

address. Projects must fall within one of the below environmental statutes:

a. *Clean Water Act, Section 104(b)(3):* conduct and promote research investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of water pollution.

b. *Safe Drinking Water Act, Section 1442(b)(3):* develop, expand, or carry out a program (that may combine training, education, and employment) for occupations relating to the public health aspects of providing safe drinking water.

c. *Solid Waste Disposal Act, Section 8001(a):* conduct and promote the coordination of research, investigations, experiments, training, demonstrations, surveys, public education programs and studies relating to solid waste.

d. *Clean Air Act, Section 103(b)(3):* conduct and promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution.

e. *Toxic Substances Control Act, Section 10(a):* conduct research, development of monitoring activities on toxic substances.

f. *Comprehensive Environmental Response Compensation and Liability Act, Section 311(a):* conduct basic research and training related to the detection, assessment, and evaluation of the risks and human effects of exposure to hazardous substances.

Applications

The original and one (1) copy of the project proposal must be sent to the regional contact listed below for the state in which the project will take place. Proposals are limited to one (1) cover page and a five (5) page, double spaced narrative of the proposed project. Proposals must include the following:

(1) Cover Sheet (not to exceed one page) that must include:

(a) Project title;

(b) Applicant's name, address, phone number and organization type (i.e., community college, nongovernment organization, tribe);

(c) A list identifying project staff;

(d) A list of entities or organizations that will be providing matching funds to the project and their organization type; and

(e) Environmental statute that the project will address (see Eligibility above).

(2) Narrative (not to exceed five pages, double spaced) that must include:

(a) Project goals;

(b) Workplan;

(c) Proposed schedule for the workplan;

(d) Anticipated results, measures of success, and ''where possible—anticipated environmental improvements as a direct result of project implementation;

(e) Budget (i.e., salaries, supplies, travel, consultants, other direct costs, and overhead); and

(f) Plan for evaluating the success of the project.

The proposal must also include letters of commitment from all contributing partners matching funds to the project. These letters must specify the nature of the match (whether it is in-kind services or cash) and the estimated dollar value of the match. These attachments will not be counted in the five (5) page narrative limit. Any other attachments or enclosures will not be considered as part of the proposal.

Final Report

Upon completion of the project , one (1) final report will be required which includes the following information: (a) description of project results, including an evaluation of overall project performance and any environmental improvements directly resulting from project implementation, and (b) financial report. Grants are subject to audit.

Criteria

EPA will use the following evaluation criteria in reviewing proposals:

- The application presents a clear description of a U.S.-Mexico border transboundary issue or concern (20 points);
- The application identifies realistic goals in addressing objectives and priorities as outlined in the U.S.-Mexico Border XXI Program Framework Document and/or annual Implementation Plans (20 points);
- The proposed project focuses on sustainable development, practices and improvements in the following areas: environmental health, risk reduction, hazardous and solid waste reduction, recycling, and water conservation at the local and/or regional level, defined above (20 points);
- The proposal outlines how the applicant will measure improvements in one or more of the above mentioned areas resulting from implementation of the project (15 points);
- The application involves a number and variety of bi-national and U.S.-Mexico border collaborators (i.e., community, nongovernment organizations, Indian tribes, local and regional governments, schools, and universities) (15 points);
- Project funding will be utilized as seed money, supporting innovative projects that would empower communities to take an integral role in protecting their environment (10 points).

No awards will be granted for the purchase of equipment for projects or for maintaining existing equipment.

Gregg A. Cooke,

Regional Administrator, U.S. EPA Region 6.

[FR Doc. 01–23461 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34225H; FRL–6802–6]

Diazinon; Products Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's cancellation order for the product and use cancellations as requested by several companies (Prentiss Inc., Unicorn Laboratories, Micro Flo Company, Agriliance, Diall Chemical Company, Nu-Method Pest Control Products, Lilly Miller Brands and Virbac Corporation, hereafter collectively referred to as the ''EUP Registrants'') that hold the registrations of pesticide End-Use Products (EUPs) containing the active ingredient diazinon and accepted by EPA, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows up an August 1, 2001, notice of receipt from the companies listed above, of requests for cancellations and or amendments of their diazinon product registrations to terminate all indoor uses, certain agricultural uses and certain outdoor non-agricultural uses. In the August 1, 2001 notice, EPA indicated that it would issue an order granting the voluntary product and use registration cancellations unless the Agency received any substantive comment within the comment period that would merit its further review of these requests. The Agency did not receive any comments that affected the Agency's intention to grant the EUP registrants' request to cancel product and use registrations. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is only permitted in accordance with the terms

of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective September 20, 2001.

FOR FURTHER INFORMATION CONTACT: By mail: Ben Chambliss, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8174; fax number: (703) 308–7042; e-mail address: *chambliss.ben@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use diazinon products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/*. To access this document, on the homepage select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the **''Federal Register —** Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. To access information about the risk assessment for diazinon, go to the homepage for the Office of Pesticide Programs or go directly to *http://www.epa.gov/pesticides/op/diazinon.htm.*

2. *In person.* The Agency has established an official record for this action under docket control number OPP 34225H. The official record consists of the documents 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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

A. Background

In letters dated April 25 and May 29, 2001, from Prentiss Inc.; May 29, 2001, from Unicorn Laboratories; May 30, 2001, from Micro Flo Company; May 31, 2001, from Agriliance; June 1, 2001, from Micro Flo Company; and June 1, 2001, from Diall Chemical Company, Inc., these registrants of pesticide products containing diazinon requested that the registrations of their diazinon products be amended to terminate all indoor uses, certain agricultural uses, and any other uses that the registrants do not wish to maintain. The requests also included deletions of outdoor non-agricultural uses from the labeling of certain end-use products so that such products would be labeled for agricultural uses only. Similarly, in letters dated May 21, 2001 from Nu-Method Pest Control Products; May 22, 2001 from Lilly Miller Brands; and May 23, 2001 from Virbac Corporation, these three registrants requested voluntary cancellation of the registrations for their diazinon end-use products that bear directions for indoor use and/or certain outdoor non-agricultural uses, and any other uses that the registrants do not wish to maintain. EPA announced its receipt of these above-mentioned cancellation requests in a **Federal Register** notice dated August 1, 2001.

These requested cancellations and amendments are consistent with the requests in December 2000 by the manufacturers of diazinon technical products, and EPA's approval of such requests, to terminate all indoor uses and certain agricultural uses from their diazinon product registrations, because of EPA's concern with the potential exposure risk, especially to children, associated with diazinon containing products. The indoor uses and agricultural uses subject to cancellation are identified in the following List.

List — Uses Requested for Termination

1. *Indoor uses*: Pet collars, or inside any structure or vehicle, vessel, or aircraft or any enclosed area, and/or on any contents therein (except mushroom houses), including food/feed handling establishments, greenhouses, schools, residences, museums, sports facilities, stores, warehouses and hospitals.

2. *Agricultural uses*: Alfalfa, bananas, Bermuda grass, dried beans, dried peas, celery, red chicory (radicchio), citrus, clover, coffee, cotton, cowpeas, cucumbers, dandelions, forestry (ground squirrel/rodent burrow dust stations for public health use), kiwi, lespedeza, parsley, parsnips, pastures, peppers, potatoes (Irish and sweet), sheep, sorghum, squash (winter and summer), rangeland, Swiss chard, tobacco, and turnips.

In today's Cancellation Order, EPA is approving the registrants' requested cancellations and amendments of the their diazinon end-use products registrations to terminate all uses identified in the List.

B. Requests for Voluntary Cancellation of End-Use Products

Nu-Method Pest Control Products, Lilly Miller Brands and Virbac Corporation, have submitted requests for voluntary cancellation of some of its registrations for end-use pesticide products containing diazinon. The end-use product registrations for which cancellation was requested are identified in the following Table 1. None of the products listed in Table 1 are registered for use on agricultural crops.

TABLE 1. — END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Reg. No.	Product
Lilly Miller Brands	802–444	Miller's Multi-Use Diazinon Insect Spray
	802–556	Lilly Miller 5% Diazinon Granules
Virbac Corporation	2382–94	Protection 150 Reflecting Flea and Tick Collar for Cats
	2382–95	Protection Plus Flea and Tick Collar for Cats
	2382–96	Protection 150 Reflecting Flea and Tick Collar for Dogs
	2382–97	Protection Plus 150 Flea and Tick Collar for Dogs
	2382–98	Protection 150 Flea and Tick Collar for Cats
	2382–99	Protection 150 Flea and Tick Collar for Dogs
	2382–105	Protection 300 Flea and Tick Collar for Dogs
Nu-Method Pest Control	6911–5	NU-Mrk NU-Method Ant & Roach Killer Products, Inc.

EPA did not receive any comments expressing a need of diazinon products for indoor use nor any comments relative to the proposed cancellation of the products listed in Table 1. Accordingly, the Agency is issuing an order in this notice canceling the registrations identified in Table 1, as requested by Lilly Miller Brands, Virbac Corporation, and Nu-Method Pest Control Products, Inc.

C. Requests for Voluntary Amendments of End-Use Product Registrations to Terminate Certain Uses

Pursuant to section 6(f)(1)(A) of FIFRA, the EUP Registrants submitted requests to amend a number of their diazinon end-use product registrations to terminate the uses identified in the List, or any other uses as specified for each product in the August 1, 2001 Diazinon 6(f) notice and reiterated in Table 2 below. The registrations for which amendments to terminate specific uses were requested are identified in the following Table 2:

TABLE 2. — END-USE PRODUCT REGISTRATIONS REQUESTS FOR AMENDMENTS TO TERMINATE USES

Company	Reg. No.	Product	Uses Canceled
Prentiss Inc.	655–456	Prentox Diazinon 50W	Insecticide: Beans (lima, pole, snap; succulent only), cucumbers, parsley, parsnips, peas (succulent only), peppers, potatoes (Irish), squash (summer and winter), sweet potatoes, swiss chard, turnips, grasslands, ditch banks, roadsides, wastelands, non-crop areas, barrier strips, lawn pest control (excluding sod farms and golf courses), livestock insects (sheep ticks Keds and lice), livestock structures (fly control in barns and animal sleeping quarters except dairy barns, milk rooms and poultry houses), residual sprays, bait sprays, sprinkling can application, and insect control on ornamentals grown indoors in nurseries.
	655–459	Prentox Diazinon AG500	Insecticide: Beans (lima, pole, snap; succulent only), cucumbers, parsley, parsnips, peas (succulent only), peppers, potatoes (Irish), squash (summer and winter), sweet potatoes, swiss chard, turnips, grasslands, ditch banks, roadsides, wastelands, non-crop areas, barrier strips, lawn pest control, and nuisance pests in outside areas.
Agriliance	9779–210	Diazinon 4 AG	Beans, cabbage, cucumbers, parsley, parsnips, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, and lawns/other outside areas.
Drexel Chemical Company	19713–91	Diazinon	Insecticide: Lawns (any turf sites), barrier strips, ditch banks, non-crop areas, roadsides, wastelands, and nuisance pests in outside areas.
	19713–492	Diazinon 50 WP	Lawns (any turf sites), barrier strips, ditch banks, non-crop areas, roadsides, wastelands, and nuisance pests in outside areas.
Unicorn Laboratories	28293–199	Unicorn Diazinon 5G	Celery
	28293–230	Unicorn 25EC Diazinon	Almonds
	28293–239	Unicorn Diazinon 14G	Beans, cabbage, celery, cucumbers, parsley, peas, peppers, potatoes, squash, sweet potatoes, swiss chard, and turnips.

TABLE 2. — END-USE PRODUCT REGISTRATIONS REQUESTS FOR AMENDMENTS TO TERMINATE USES—Continued

Company	Reg. No.	Product	Uses Canceled
Diall Chemical Company Inc.	34822–6	DI-ALL Paint	Insecticide: Farm buildings (including dairy barns and milk parlors), warehouses, office buildings, theaters, schools, hotels, motels, factories and outbuildings.
Micro-Flo Company	51036–70	Diazinon 14G	Beans, parsley, peppers, potatoes (Irish), squash (Winter and Summer), swiss chard, and turnips.
	51036–71	Diazinon AG 500	Beans, parsley, parsnips, peppers, potatoes (Irish), squash (Summer and Winter), swiss chard, turnips, livestock structures and lawns.
	51036–93	Diazinon 5G AG	Beans, celery, cucumber, parsley, peas, peppers, potatoes, squash (Summer and Winter), sweet potatoes, swiss chard and turnips.
	51036–108	Diazinon 50 WP	Beans, parsley, parsnips, peppers, potatoes (Irish), squash (Summer and Winter), swiss chard, turnips, livestock structures and lawns.

III. Cancellation Order

Pursuant to section 6(f) of FIFRA, EPA hereby approves the requested diazinon product registration cancellations and amendments to terminate all indoor uses and certain agricultural uses, as identified in the List, and all other uses (including specific outdoor non-agricultural uses) identified for deletion in the August 1 Diazinon 6(f) notice. Accordingly, the Agency orders that the diazinon end-use product registrations identified in Table 1 are hereby canceled. The Agency also orders that all of the uses identified in the List, and all other uses (including specific outdoor non-agricultural uses) identified for deletion in Table 2 are hereby canceled from the end-use product registrations identified in Table 2. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 in a manner inconsistent with the terms of this Order or the Existing Stock Provisions in Unit IV of this notice will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

IV. Existing Stocks Provisions

For purposes of this Order, the term ''existing stocks'' is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the amendment or cancellation. The existing stocks provisions of this Cancellation Order are as follows:

1. *Distribution or sale of products bearing instructions for use on agricultural crops.* The distribution or sale of existing stocks by the registrant of any product listed in Table 2 that bears instructions for use on the agricultural crops identified in the List will not be lawful under FIFRA 1 year after the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 2 that bears instructions for any of the agricultural uses identified in the List after the effective date of the cancellation order.

2. *Distribution or sale of products bearing instructions for use on outdoor non-agricultural sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites will not be lawful under FIFRA 1 year after the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites after the effective date of the cancellation order.

3. *Distribution or sale of products bearing instructions for use on indoor sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use at or on any indoor sites (except mushroom houses), shall not be lawful under FIFRA as of the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

4. *Retail and other distribution or sale of existing stock of products for indoor use.* The retail sale of existing stocks by any person other than the registrants of products listed in Table 1 or 2 bearing instructions for any indoor uses except mushroom houses will not be lawful under FIFRA after December 31, 2002, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

5. *Use of existing stocks.* EPA intends to permit the use of existing stocks of products listed in Table 1 or 2 until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

Lists of Subjects

Environmental protection, Memorandum of Agreement, Pesticides and pests.

Dated: September 7, 2001.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–23460 Filed 9–19–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66292; FRL–6800–3]

Fenamiphos and Metolachlor, Receipt of Requests for Voluntary Cancellation of Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests from the registrants Bayer Corporation and Syngenta Crop Protection, Inc. to amend their registrations to delete some uses for the products containing fenamiphos, ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate) and metolachlor, (2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide), respectively.

The EPA received these requests for voluntary cancellation in response to the reregistration eligibility evaluation of these individual pesticides.

DATES: Comments, identified by docket control number OPP–66292, must be received on or before October 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in the Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, you must identify docket control number OPP–66292 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Tawanda Spears, telephone number: (703) 308–8050; e-mail address: *spears.tawanda@epa.gov* (Fenamiphos) and Anne Overstreet, telephone number: (703) 308–8068; e-mail address: *overstreet.anne@epa.gov* (Metolachlor), Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stock provisions that will be set forth in the cancellation order the Agency intends to issue at the close of the comment period for this announcement, absent adverse comments.

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use fenamiphos or metolachlor products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person or persons listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/*. To access this document, on the homepage select ''Laws and Regulations'' ''Regulations and Proposed Rules'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–66292. The official record consists of the documents 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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–66292 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: *opp-docket@epa.gov*, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–66292. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses.

A. Background

The EPA is publishing a single notice in response to registrant's requests to delete some uses for fenamiphos and metolachlor from their labels. (See the table in this unit for specific information regarding the cancellation requests.)

Reregistration Eligibility Decision (RED) documents summarize the findings of EPA's reregistration review process for individual chemical cases, and reflect the Agency's decisions on risk assessment and risk management for uses of individual pesticides. The metolachlor RED was issued in April of 1995. However, since the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, the Agency is required to reconsider metolachlor tolerances consistent with the provisions of the Act. This tolerance reassessment decision is scheduled to be completed in 2002. In defining the scope of this review, Syngenta, the metolachlor registrant, has elected to voluntarily drop certain uses from their technical label.

For fenamiphos, an organophosphate, a RED has not been issued. Although the Agency has not yet completed its cumulative risk assessment for a RED, the Agency is issuing an interim reregistration eligibility decision (IRED) to identify risk reduction measures that are necessary to support the continued use of fenamiphos. As part of this process, Bayer has elected to delete certain uses from its product labels rather than develop the data necessary to support reregistration.

The EPA will consider any comments received during the 30–day public comment period prior to canceling affected uses.

B. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use and Technical Product Labels

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend their end-use and technical registrations of pesticide products containing fenamiphos and metolachlor, respectively, to delete the listed uses from the listed product(s) bearing such use. The registrations, for which amendments to delete uses were requested, are identified in the following table.

NOTICE FOR VOLUNTARY CANCELLATION OF REGISTERED USES

Chemical	PC code	Company # Address	Nature of action	Products affected	Comments
Fenamiphos	100601	Bayer Corp., 8400 Hawthorne Rd., P.O. Box 4913, Kansas City, MO 64120–0013	Cotton and pineapple use deletion	3EC[1] 3125–283 15G[2] 3125–236	Cancel 3EC and 15G on cotton and 15G on pineapple.
Metolachlor	108801	Syngenta Crop Protection, Inc., P.O. Box 18300 Greensboro, NC 27419–8300	Stone fruits and almond use deletion	100–587	

[1]3EC: Nemacur 3 (emulsifiable concentrate—3 lb active ingredient/gal)
[2] 15G: Nemacur 15% (granular formulation—15% active ingredient/gal)

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses. The aforementioned companies have requested to amend their registrations and that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. Because of risk concerns posed by certain uses of fenamiphos and metolachlor, EPA intends to grant the requested amendments to delete uses at the close of the comment period for this announcement.

III. Proposed Existing Stocks Provisions

The registrants have requested voluntary cancellation of the fenamiphos and metolachlor registrations identified in the table. EPA intends to grant the requests for voluntary cancellations. For purposes of the cancellation order that the Agency intends to issue at the close of the comment period for this announcement, the term ''existing stocks'' will be defined, pursuant to EPA's existing stocks policy published in the **Federal Register** of (June 26, 1991, 56 FR 29362) (FRL–3846–4), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation or amendment. Registrants may generally distribute and sell products bearing old labels/labeling for 12 months from the effective date of cancellation. Persons other than the registrant may generally distribute or sell such products for 24 months from the effective date of cancellation. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that the Agency intends to issue that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 7, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–23459 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00654A; FRL–6793–4]

Pesticides; Final Guidance for Pesticide Registrants on Disposal Instructions for Non-Antimicrobial, Residential/Household Use Pesticide Product Labels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency is announcing the availability of a Pesticide Registration Notice (PR-Notice) entitled ''Disposal Instructions on Non–Antimicrobial, Residential/Household Use Pesticide Product Labels.'' This PR-Notice was issued by the Agency on September 7, 2001, and is identified as PR-Notice 2001–6. A draft for comment of this notice was published in the **Federal Register** of June 14, 2000 (65 FR 37383) (FRL–6553–4), with a 60–day comment period. PR-Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures and registration-related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular PR-Notice provides guidance to the registrant concerning disposal instructions for both empty and partly filled containers of non–antimicrobial, residential/household use pesticide product labels. The revised instructions should decrease the number of accidental exposures to sanitation workers and to the environment and allow state/local governments greater latitude in carrying out their responsibilities for product disposal and waste management programs.

FOR FURTHER INFORMATION CONTACT: By mail: Amy L. Breedlove, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9069; fax number: (703) 305–5884; e-mail address: *Breedlove.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who are required to register, regulate, or label pesticides, people who manage or regulate household hazardous waste facilities or collection events may also be interested in this notice. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What Guidance Does this PR Notice Provide?

This PR-Notice provides guidance to the registrant concerning the development of disposal instructions for non–antimicrobial, residential/household use pesticide product labels. EPA is providing instructions that direct consumers to call their local solid waste authorities for specific disposal instructions for partly filled containers, rather than directing them to wrap the container in paper and dispose of it in the trash. The notice also informs registrants of what EPA considers to be a residential/household use pesticide; provides criteria to be met by any toll-free phone number provided within the disposal instructions; and addresses how to develop recycling statements and why providing a rationale to consumers for following the disposal instructions is useful. The new instructions provide state and local governments greater latitude in carrying out their responsibilities for product disposal and waste management programs and decreases the potential for accidental pesticide exposures to sanitation workers and to the environment.

III. Do PR-Notices Contain Binding Requirements?

The PR-Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, this PR-Notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

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

1. *Electronically*. You may obtain an electronic copy of this **Federal Register** document using the date of publication from the listing of EPA **Federal Register** documents at *http://www.epa.gov/fedrgstr/*. You may obtain an electronic copy of this PR-Notice, as well as other PR-Notices, both final and draft, at *http://www.epa.gov/PR_Notices/*.

2. *Fax-on-demand*. You may request a faxed copy of the PR-Notice entitled ''Disposal Instructions on Non-antimicrobial, Residential/Household Use Pesticide Product Labels,'' by using a faxphone to call (202) 401–0527 and selecting item 6143. You may also follow the automated menu.

3. *In person*. The Agency has established an official record for this action under docket control number OPP–00654A. The official record consists of the documents 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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 7, 2001.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 01–23458 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–01–43–A (Auction No. 43); DA 01–2076]

Auction No. 43 Multi-Radio Service Auction Scheduled for January 10, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the auction of licenses in multiple radio services to commence on January 10, 2002, and seeks comment on auction procedural issues.

DATES: Comments are due on or before September 21, 2001 and reply comments are due on or before September 28, 2001.

ADDRESSES: An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 Twelfth Street, SW, Washington, DC 20554, in accordance with § 1.51(c) of the Commission's rules.

FOR FURTHER INFORMATION CONTACT: Legal questions: Howard Davenport (202) 418–0660 or e-mail *hdavenpo@fcc.gov* For general auction questions: Lyle Ishida (202) 418–0660 or e-mail *lishida@fcc.gov* or Barbara Sibert (717) 338–2888 or e-mail *bsibert@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 43 Comment Public Notice* released September 7, 2001. The complete text of the *Auction No. 43 Comment Public Notice,* including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The *Auction No. 43 Comment Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

I. General Information

1. By the *Auction No. 43 Comment Public Notice,* the Wireless Telecommunications Bureau (''Bureau'') announces the auction of licenses in multiple radio services to commence on January 10, 2002 (''Auction No. 43''). Auction No. 43 will include 4 licenses in the Phase II 220 MHz Service, 23 licenses for the 800 MHz Specialized Mobile Radio (''SMR'') Service General Category Frequencies, and 42 multilateration licenses in the Location and Monitoring Service (''LMS''). The licenses included in Auction No. 43 either remain unsold from a previous auction or were defaulted on by a winning bidder in a previous auction. A complete list of licenses available for Auction No. 43 and their descriptions is included as Attachment A of the *Auction No. 43 Comment Public Notice.*

2. The Balanced Budget Act of 1997 requires the Commission to ''ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *.'' Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. The Bureau therefore seeks comment on the following issues relating to Auction No. 43.

II. Auction Structure

A. Simultaneous Multiple Round Auction Design

3. The Bureau proposes to award the licenses in a single, simultaneous multiple-round auction. As described further, this methodology offers every license for bid at the same time with successive bidding rounds in which bidders may place bids. The Bureau seeks comment on this proposal.

B. Upfront Payments and Initial Maximum Eligibility

4. The Bureau has been delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area, and the value of similar spectrum. As described further, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these guidelines in mind for Auction No. 43, the Bureau proposes to calculate upfront payments on a license-by-license basis using the following formulas:

- 220 MHz
  EAG Licenses—$0.01 * 0.15 MHz * License Area Population
  EA Licenses—$500 per license
- 800—MHz $0.005 * License Area Population with a minimum of $2,500 per license.
- LMS
  Block A:—$0.0004 * MHz * License Area Population with a minimum of $500 per license.
  Block B:—$0.0005 * MHz * License Area Population with a minimum of $500 per license.
  Block C:—$0.0005 * MHz * License Area Population with a minimum of $500 per license.

5. Accordingly, the Bureau lists all licenses, including the related license area population and proposed upfront payment for each, in Attachment A of the *Auction No. 43 Comment Public Notice.* The Bureau seeks comment on this proposal.

6. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the number of bidding units on which a bidder may place bids. This limit is a bidder's ''maximum initial eligibility.'' Each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 43 Comment Public Notice,* on a bidding unit per dollar basis. This number does not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses as long as the total number of bidding units associated with those licenses does not exceed its maximum initial eligibility. Eligibility cannot be increased during the auction. Thus, in calculating its upfront payment amount, an applicant must determine the *maximum* number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. The Bureau seeks comment on this proposal.

C. Activity Rules

7. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or must use an activity rule waiver (if any remain).

8. The Bureau proposes to divide the auction into two stages, each characterized by an increased activity requirement. The auction will start in Stage One. The Bureau proposes that the auction generally will advance to the next stage (i.e., from Stage One to Stage Two) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is approximately twenty percent or below for three consecutive rounds of bidding. However, the Bureau further proposes

that it retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Bureau seeks comment on these proposals.

9. For Auction No. 43, the Bureau proposes the following activity requirements:

Stage One: In each round of the first stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4).

Stage Two: In each round of the second stage, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty/forty-ninths (50/49).

10. The Bureau seeks comment on these proposals. If commenters believe that these activity rules should be changed, they should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

D. Activity Rule Waivers and Reducing Eligibility

11. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

12. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any bidding period where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

13. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the Reduce Eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

14. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the Proactive Waiver function in the bidding system) during a bidding period in which no bids or withdrawals are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

15. The Bureau proposes that each bidder in Auction No. 43 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth. The Bureau seeks comment on this proposal.

E. Information Relating to Auction Delay, Suspension, or Cancellation

16. For Auction No. 43, the Bureau proposes that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Bureau seeks comment on this proposal.

II. Bidding Procedures

A. Round Structure

17. The Commission will use its Automated Auction System to conduct the electronic simultaneous multiple round auction format for Auction No. 43. Auction No. 43 will be conducted over the Internet. However, as in prior auctions, the Bureau's wide area network will be available at the standard charge, and telephonic bidding will also be available. Prospective bidders concerned about their access to the Internet may want to establish a connection to the Bureau's wide area network as a backup. Full information regarding how to establish such a connection, and related charges, will be provided in the public notice announcing details of auction procedures.

18. In past auctions, the Bureau has used the timing of bids to select a high bidder when multiple bidders submit identical high bids on a license in a given round. Given that bidders will access the Internet at differing speeds, the Bureau will not use this procedure in Auction No. 43. For Auction No. 43, the Bureau proposes to use a random number generator to select a high bidder from among such bidders. As with prior auctions, remaining bidders will be able to submit higher bids in subsequent rounds. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The simultaneous multiple round format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

19. The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. The Bureau seeks comment on this proposal.

B. Reserve Price or Minimum Opening Bid

20. The Balanced Budget Act calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid

when FCC licenses are subject to auction unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.

21. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which *no bids* are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer often has the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

22. In light of the Balanced Budget Act's requirements, the Bureau proposes to establish minimum opening bids for Auction No. 43. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool.

23. Specifically, for Auction No. 43, the Commission proposes the following license-by-license formula for calculating minimum opening bids:

- 220 MHz
  EAG Licenses—$0.0125 * 0.15 MHz * License Area Population
  EA Licenses—$500 per license
- 800 MHz—$0.005 * License Area Population with a minimum of $2,500 per license.
- LMS
  Block A:—$0.0004 * MHz * License Area Population with a minimum of $500 per license.
  Block B:—$0.0005 * MHz * License Area Population with a minimum of $500 per license.
  Block C:—$0.0005 * MHz * License Area Population with a minimum of $500 per license.

24. The specific minimum opening bid for each license available in Auction No. 43 is set forth in Attachment A of the *Auction No. 43 Comment Public Notice.* Comment is sought on this proposal. If commenters believe that these minimum opening bids will result in substantial numbers of unsold licenses, or are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the minimum opening bids, the Bureau particularly seeks comment on such factors as the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the 220 MHz, 800 MHz and LMS spectrum. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

C. Minimum Acceptable Bids and Bid Increments

25. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. The Automated Auction System interface will list the nine acceptable bid amounts for each license. Once there is a standing high bid on a license, the Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described. The difference between the minimum acceptable bid and the standing high bid for each license will define the *bid increment*. The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (i.e., the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

26. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts for licenses that have not yet received a bid will be calculated differently, as explained.

27. For Auction No. 43, the Bureau proposes to calculate minimum acceptable bids by using a smoothing methodology, as the Bureau has done in several other auctions. The smoothing formula calculates minimum acceptable bids by first calculating a *percentage increment*, not to be confused with the *bid increment*, for each license based on a weighted average of the activity received on each license in all previous rounds. This methodology tailors the percentage increment for each license based on activity, rather than setting a global increment for all licenses.

28. In a given round, the calculation of the percentage increment for each license is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.2 (20%).

Equations

$A_i = (C * B_i) + ((1–C) * A_{i-1})$
I_{i+1} = smaller of ((1 + A_i) * N) and M
$X_{i+1} = I_{i+1} * Y_i$
where,
A_i = activity index for the current round (round i)
C = activity weight factor
B_i = number of bids in the current round (round i)
A_{i-1} = activity index from previous round (round i-1), A_0 is 0
I_{i+1} = percentage increment for the next round (round i+1)
N = minimum percentage increment or percentage increment floor
M = maximum percentage increment or percentage increment ceiling
X_{i+1} = dollar amount associated with the percentage increment
Y_i = high bid from the current round

29. Under the smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the high bid from the current round plus the dollar amount associated with the percentage increment, with the result rounded to the nearest thousand if it is over $10,000, to the nearest hundred if it is under $10,000 but over $1,000, or to the nearest ten if it is below $1,000.

Examples

License 1
C=0.5, N = 0.1, M = 0.2

Round 1 (2 New Bids, High Bid = $1,000,000)

i. Calculation of percentage increment for round 2 using the smoothing formula:

$A_1 = (0.5 * 2) + (0.5 * 0) = 1$
I_2 = The smaller of $((1 + 1) * 0.1) = 0.2$ or 0.2 (the maximum percentage increment)

ii. Calculation of dollar amount associated with the percentage increment for round 2 (using I_2):

$X_2 = 0.2 * \$1{,}000{,}000 = \$200{,}000$.

iii. Minimum acceptable bid for round 2 = $1,200,000.

Round 2 (3 New Bids, High Bid = $2,000,000)

i. Calculation of percentage increment for round 3 using the smoothing formula:

$A_2 = (0.5 * 3) + (0.5 * 1) = 2$
I_3 = The smaller of $((1 + 2) * 0.1) = 0.3$ or 0.2 (the maximum percentage increment)

ii. Calculation of dollar amount associated with the percentage increment for round 3 (using I_3):

$X_3 = 0.2 * \$2{,}000{,}000 = \$400{,}000$

iii. Minimum acceptable bid for round 3 = $2,400,000.

Round 3 (1 New Bid, High Bid = $2,400,000)

i. Calculation of percentage increment for round 4 using the smoothing formula:

$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$
I_4 = The smaller of $((1 + 1.5) * 0.1) =$ 0.25 or 0.2 (the maximum percentage increment)

ii. Calculation of dollar amount associated with the percentage increment for round 4 (using I_4):

$X_4 = 0.2 * \$2{,}400{,}000 = \$480{,}000$

iii. Minimum acceptable bid for round 4 = $2,880,000

30. As stated, until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts are calculated using the difference between the minimum opening bid times one plus the minimum percentage increment, rounded as described, and the minimum opening bid. That is, I = (minimum opening bid)(1 + N){rounded}-(minimum opening bid). Therefore, when N equals 0.1, the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent; the third, thirty percent; etc.

31. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid.

32. The Bureau retains the discretion to change the minimum acceptable bids and bid increments if it determines that circumstances so dictate. The Bureau will do so by announcement in the Automated Auction System. The Bureau seeks comment on these proposals.

D. Information Regarding Bid Withdrawal and Bid Removal

33. For Auction No. 43, the Bureau proposes the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bid placed in that round. By using the Remove Selected Bids function in the bidding system, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment.

34. Once a round closes, a bidder may no longer remove a bid. However, in any subsequent round, a high bidder may withdraw its standing high bids from previous rounds using the Withdraw function in the bidding system. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions, of the Commission rules. The Bureau seeks comment on these bid removal and bid withdrawal procedures.

35. In the *Part 1 Third Report and Order,* 63 FR 2315 (January 15, 1998) the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

36. Applying this reasoning, the Bureau proposes to limit each bidder in Auction No. 43 to withdrawing standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Bureau seeks comment on this proposal.

E. Stopping Rule

37. For Auction No. 43, the Bureau proposes to employ a simultaneous stopping rule approach. The Bureau has discretion ''to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time.'' A simultaneous stopping rule means that all licenses remain open until the first round in which no new acceptable bids, proactive waivers, or withdrawals are received. After the first such round, bidding closes simultaneously on all licenses. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license.

38. However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 43:

i. Utilize a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used at any time or only in stage two of the auction.

ii. Keep the auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

iii. Declare that the auction will end after a specified number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) only for licenses on

which the high bid increased in at least one of the preceding specified number of rounds.

39. The Bureau proposes to exercise these options only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. The Bureau seeks comment on these proposals.

IV. Conclusion

40. Comments are due on or before September 21, 2001, and reply comments are due on or before September 28, 2001. An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 Twelfth Street, SW., Washington, DC 20554, in accordance with § 1.51(c) of the Commission's rules. In addition, one copy of each pleading must be delivered to each of the following locations: (i) The Commission's duplicating contractor, Qualex International, Portals II, 445 Twelfth Street, SW., Room CY–B402, Washington, DC 20554; (ii) Office of Media Relations, Public Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554; (iii) Rana Shuler, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Room 4–A628, 445 Twelfth Street, SW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

41. This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions and Industry Analysis Division, WTB.

[FR Doc. 01–23360 Filed 9–19–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–01–37–H (Auction No. 37); DA 01–2148]

Auction for FM Non-Reserved Band FM Allotments

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the postponement of Broadcast Auction No. 37 for vacant non-reserved band FM allotments.

FOR FURTHER INFORMATION: Kathy Garland, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau at (717) 338–2888; Kenneth Burnley, Legal Branch, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau at (202) 418–0660; or Lisa Scanlan, Audio Services Division, Mass Media Bureau at (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released September 14, 2001. The complete text of the Public Notice is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. It may also be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 863–2898. It is also available on the Commission's Web site at *http://www.fcc.gov*.

General Information

The Wireless Telecommunications Bureau and the Mass Media Bureau (collectively, the ''Bureaus'') announce the postponement of Auction No. 37 for vacant non-reserved band FM allotments, which was previously scheduled to begin on December 5, 2001.

On July 3, 2001, the United States Court of Appeals for the District of Columbia Circuit in *National Public Radio, Inc. et al.,* v. *FCC, Nos. 00–1246, 00–1255* (decided July 3, 2001) (''NPR'') vacated the portion of the Commission's Noncommercial Report and Order, 65 FR 36375 (June 8, 2000), that required noncommercial educational (''NCE'') entities that applied for authorizations in the non-reserved spectrum to participate in auctions with mutually exclusive commercial applicants. Each of the vacant non-reserved FM band allotments included in Auction No. 37 is potentially impacted by NPR. The Bureaus announce that they will postpone Auction No. 37 while the Commission formulates its response to the NPR decision. Therefore, the previously announced filing window for FCC Form 175 submissions is cancelled, and Auction No. 37 FCC Form 175 applications will not be accepted as previously scheduled. Further information, including a revised FM Auction No. 37 schedule, will be announced in forthcoming Commission notices.

Federal Communications Commission.

Lisa Scanlan,

Supervisory Attorney, Audio Services Division, Mass Media Bureau.

[FR Doc. 01–23498 Filed 9–19–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2502]

Petitions for Reconsideration of Action in Rulemaking Proceedings

September 13, 2001.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC, or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to these petitions must be filed by October 5, 2001. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of FM Table of Allotments (MM Docket No. 98–162).

Number of Petitions Filed: 1.

Subject: Amendment of FM Table of Allotments (MM Docket No. 97–178).

Number of Petitions Filed: 1.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23496 Filed 9–19–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 9 a.m. on Friday, September 21, 2001, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum re: 2001—2006 Strategic Plan.

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.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. James D. LaPierre, Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: September 14, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–23610 Filed 9–18–01; 12:00 pm]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011539–008.

Title: Libra/Lykes/ML Space Charter and Sailing Agreement.

Parties: Companhia Libra de Navegaçâo, Lykes Lines Limited LLC, TMM Lines Limited LLC.

Synopsis: The proposed agreement modification deletes the Atlantic Coast of Florida from, and adds Puerto Rico to, the geographic scope of the agreement.

Agreement No.: 011560–003.

Title: The Transatlantic Bridge Agreement.

Parties: The COSCO/KL Transatlantic Vessel Sharing Agreement; The KL/YM Transatlantic Vessel Sharing Agreement.

Synopsis: The proposed amendment extends the termination date of the agreement to October 31, 2002, and provides for five additional container vessels to be deployed by the parties.

Agreement No.: 011561–003.

Title: COSCO/KL Transatlantic Vessel Sharing Agreement.

Parties: China Ocean Shipping Group Company, Kawasaki Kisen Kaisha, Ltd.

Synopsis: The proposed amendment extends the termination date of the agreement to October 31, 2002; provides for a further one-year extension clause; and provides for an increase in vessel load capacity from 2,000 TEUs to 3,500 TEUs.

Agreement No.: 011562–004.

Title: KL/YM Transatlantic Vessel Sharing Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd.; Yangming Marine Transport Corporation.

Synopsis: The proposed amendment extends the termination date of the agreement to October 31, 2002, and provides for an increase in vessel load capacity from 2,800 TEUs to 3,500 TEUs.

Agreement No.: 201006–002.

Title: New Orleans-Ceres Gulf Lease Agreement.

Parties: Board of Commissioners of the Port of New Orleans Ceres Gulf, Inc.

Synopsis: The amendment changes the termination date of the agreement to October 31, 2002, and provides an option for one three-year extension.

Agreement No.: 201086–002.

Title: Oakland-Zim Lease Agreement.

Parties: City of Oakland, Board of Port Commissioners Zim-American Israeli Shipping Co., Inc.

Synopsis: The proposed amendment provides for the early termination of the agreement and reflects a financial settlement in connection with that termination.

By Order of the Federal Maritime Commission.

Dated: September 14, 2001.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 01–23351 Filed 9–19–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 10 a.m.—September 26, 2001.

PLACE: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: Ocean Shipping Reform Act Impact Study; Docket No. 01–01—The Impact of the Ocean Shipping Reform Act of 1998.

CONTACT PERSON FOR MORE INFORMATION: Bryant L. VanBrakle, Secretary, (202) 523–5725.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–23623 Filed 9–18–01; 12:15 pm]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 15701N.

Name: Global Shipping & Travel Service, Inc.

Address: 172–25 Jamaica Avenue, Jamaica, NY 11432.

Date Revoked: January 14, 2001.

Reason: Failed to maintain a valid bond.

License Number: 14953N.

Name: Speedway Cargo Services, Inc.

Address: 147–55 175th Street, #102, Jamaica, NY 11434.

Date Revoked: August 27, 2001.

Reason: Surrendered license voluntarily.

Sandra L. Kusumoto,

Director Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–23352 Filed 9–19–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicant

Notice is hereby given that the following applicant has filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicant should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicant:

Plus System, Inc. dba PSI Express, 2263 W. 255th Street, Lomita, CA 90717, Officers: Dong T. Oh, President, (Qualifying Individual), Kang N. Oh, Secretary

Dated: September 14, 2001.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 01–23353 Filed 9–19–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 4, 2001.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. William R. Baierl, Allison Park, Pennsylvania; Baierl Chevrolet, Inc., Wexford, Pennsylvania; Carole A. Baierl, and the William R. Baierl Trust (Trustees: William R. Baierl, Sandra Bussee and Lee W. Baierl), all of Allison Park, Pennsylvania; to acquire outstanding voting shares of NSD Bancorp, Inc., Pittsburgh, Pennsylvania, and thereby indirectly acquire voting shares of Northside Bank, Pittsburgh, Pennsylvania.

Board of Governors of the Federal Reserve System, September 14, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23355 Filed 9–19–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 15, 2001.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. DNB Bancshares, Inc., Dallas, Texas, and DNB Delaware Financial Corporation, Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Dallas National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, September 14, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23354 Filed 9–19–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site 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 October 15, 2001.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Williamstown Mutual Holding Company, Williamstown, Massachusetts; to become a bank

holding company by acquiring 100 percent of the voting shares of Williamstown Savings Bank, Williamstown, Massachusetts.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Venture Bancshares, Inc., Bloomington, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Venture Bank, Bloomington, Minnesota, a de novo bank.

Board of Governors of the Federal Reserve System, September 17, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23472 Filed 9–19–01; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR) Revision of SF 503, Medical Record—Autopsy Protocol

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration/ICMR revised the SF 503, Medical Record—Autopsy Protocol to:

1. Collect information on the sponsor of the patient;

2. Delete ''grade; rank; rate;'' from ''PATIENT'S IDENTIFICATION'' item and replace with ''ID no. (SSN or other)'';

3. Add standard information fields; and

4. Make the form authorized for local reproduction.

You can obtain the updated form from GSA, Forms–XR, Attn.: Barbara Williams, (202) 501–0581.

DATES: Effective September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: September 12, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–23357 Filed 9–19–01; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Notice of Program Announcement No. ACF/ACYF/HS 2002–01]

Discretionary Announcement for Select Service Areas of Early Head Start; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), DHHS.

ACTION: Notice of availability of Early Head Start financial assistance for select service areas and request for applications.

SUMMARY: The Administration on Children, Youth and Families announces financial assistance to be competitively awarded to local public and local non-profit and for-profit private entities—including Early Head Start and Head Start grantees—to provide child and family development services for low-income families with children under age three and pregnant women. Early Head Start programs provide early, continuous, intensive and comprehensive child development and family support services on a year-round basis to low-income families. The purpose of the Early Head Start program is to enhance children's physical, social, emotional, and intellectual development; to support parents' efforts to fulfill their parental roles; and to help parents move toward self-sufficiency.

The funds available will be competitively awarded to eligible applicants to operate Early Head Start programs in select service areas. (See Parts I and II of Appendix A for a listing of select service areas.)

Grants will be competitively awarded to eligible applicants, including current Head Start and Early Head Start grantees, to operate Early Head Start programs in select service areas. In awarding these grants, ACYF is interested in assuring that those communities currently served (i.e., the service areas listed in Parts I and II of Appendix A) will have an opportunity to continue receiving services for low-income families with infants and toddlers and pregnant women through Early Head Start. In addition, ACYF wants to ensure continued services for families who are currently receiving EHS services in these communities.

Applicants in each select service area will compete for funds against other applicants wishing to serve the same select service area.

DATES: The closing date and time for receipt of applications for service areas listed in Part I of Appendix A is 5 p.m. (EST) on December 3, 2001.

The closing date and time for receipt of applications for service areas listed in Part II of Appendix A is 5 p.m. (EST) on April 1, 2002.

Note: Applications should be submitted to the ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, VA 22209. However, prior to preparing and submitting an application, in order to satisfactorily compete under this announcement, it will be necessary for potential applicants to read the full announcement which is available through the addresses listed below.

ADDRESSES: A copy of the program announcement, necessary application forms, and other appendices can be obtained by contacting: Early Head Start, ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209. The telephone number is 1–800–351–2293. Or e-mail to: *ehs@lcgnet.com*

Copies of the program announcement and necessary application forms can be downloaded from the Head Start Web site at: *www.acf.dhhs.gov/programs/hsb*

FOR FURTHER INFORMATION CONTACT: ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, VA 22209 or telephone: 1–800–351–2293 or e-mail to: *ehs@lcgnet.com*

SUPPLEMENTARY INFORMATION:

Eligible Applicants: Applicants eligible to apply to become an Early Head Start program are local public and local non-profit and for-profit private entities. Early Head Start and Head Start grantees are eligible to apply.

Project Duration: The competitive awards made through this announcement will be for one-year budget periods and an indefinite project period. Subsequent year budget awards will be made non-competitively, subject to availability of funds and the continued satisfactory performance of the applicant. Current EHS grantees in good standing, who submit acceptable applications, will be given priority in funding decisions.

Federal Share of Project Costs: In most cases, the Federal share will not be more than 80 percent of the total approved costs of the project.

Matching Requirements: Grantees that operate Early Head Start programs must, in most instances, provide a non-Federal contribution of at least 20 percent of the total approved costs of the project.

Available Funds: See Parts I and II of Appendix A for the list of the select

service areas and for the amount of funding available for each area.

Anticipated Number of Projects To Be Funded: It is estimated that there will be one award for each of the select service areas.

Statutory Authority: The Head Start Act, as amended, 42 U.S.C. 9831 *et seq.*

Evaluation Criteria

Competing applications for financial assistance will be reviewed and evaluated on the six criteria which are summarized below. The point values following each criterion indicate the numerical weight each criterion will be accorded in the review process.

Criterion 1. Objectives and Need for Assistance (15 points)

The extent to which, based on community assessment information, the applicant identifies any relevant physical, economic (e.g., poverty in the community), social, financial, institutional, or other issues which demonstrate a need for the Early Head Start program.

The extent to which the applicant lists relevant program objectives that adequately address the strengths and needs of the community.

The extent to which the applicant describes the population to be served by the project.

The extent to which the applicant gives a precise location and rationale for the project site(s) and service area to be served by the proposed project.

Criterion 2. Results or Benefits Expected (10 points)

The extent to which the applicant identifies the results and benefits to be derived from the project and links these to the stated objectives.

The extent to which the applicant describes the kinds of data to be collected and how they will be utilized to measure progress towards the stated results or benefits.

Criterion 3. Approach (25 points)

The extent to which the applicant demonstrates a thorough knowledge and understanding of the Head Start Program Performance Standards.

The extent to which the applicant explains why the approach chosen is effective in light of the needs, objectives, results and benefits described above.

The extent to which the approach is grounded in recognized standards and/or guidelines for high quality service provision or is defensible from a research or ''best practices'' standpoint.

Criterion 4. Staff and Position Data and Organization Profiles (15 points)

The extent to which the proposed program director, proposed key project staff, the organization's experience, including experience in providing early, continuous, and comprehensive child and family development services, and the organization's history with the community demonstrate the ability to effectively and efficiently administer a project of this size, complexity and scope.

The extent to which the applicant's management plan demonstrates sufficient management capacity to implement a high quality Early Head Start program.

The extent to which the organization demonstrates an ability to carry out continuous improvement activities.

Criterion 5. Third Party Agreements/Collaboration (15 points)

The extent to which the applicant presents documentation of efforts (letters of commitment, interagency agreements, etc.) to establish and maintain ongoing collaborative relationships with community partners.

The extent and thoroughness of approaches to combining Early Head Start resources and capabilities with those of other local child care agencies and providers to provide high quality child care services to infants and toddlers which meet the Head Start Program Performance Standards.

Criterion 6. Budget and Budget Justification (20 points)

The extent to which the program's costs are reasonable in view of the planning and activities to be carried out and the anticipated outcomes.

The extent to which the program has succeeded in garnering cash or in-kind resources, in excess of the required Federal match, from local, State, other Federal or private funding sources. The extent to which costs for facilities are reasonable and cost effective.

The extent to which the salaries and fringe benefits reflect the level of compensation appropriate for the responsibilities of staff.

The extent to which assurances are provided that the applicant can and will contribute the non-Federal share of the total project cost.

Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these jurisdictions need not take action regarding Executive Order 12372.

Applications for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them to the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to the ACF, they should be addressed to: William Wilson, Head Start Bureau, Grants Officer, 330 C Street SW, Room 2220, Washington, DC 20447. Attn: Early Head Start Competition for Select Service Areas.

A list of the Single Points of Contact for each State and Territory can be found on the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html*

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: September 14, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

Appendix A

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION

State and county	FY 2002 funding level	Service area (local community)
Part I: Applications for Part I Are Due December 3, 2001		
Alabama:		
Jefferson	$1,265,357	Birmingham, Bessemer, Tarrant City, Centerpoint, Adamsville, Grayville, Brookville, Sayre, Roebuck, Ensley, Forrestdale, Gardendale, and other small unincorporated areas.
Lee	708,461	Entire County.
Russell	.....	Entire County.
Alaska: None.		
Arizona: None.		
Arkansas: None.		
California: Alameda	2,135,387	West Oakland, San Antonio, Fruitvale, Central East Oakland and Elmhurst.
Colorado: None.		
Connecticut: Fairfield	763,728	City of Stamford.
Delaware:		
New Castle	1,603,987	Entire County.
Kent	.....	Entire County.
Sussex	518,022	Georgetown.
Florida: Broward	753,581	Pompano Beach, Hollywood.
Georgia:		
Whitfield	758,754	Entire County, except south of Tilton and north of Varnell.
Murray	.....	Entire County, except north of Eton and south to North Georgia Speedway.
Hawaii: None.		
Idaho:		
Bonner	1,229,383	Community of Sand Point.
Kootenai	.....	Cities of Coeur d'Alene, Post Falls and surrounding areas.
Nez Perce	443,846	Nez Perce County, Idaho, except Nez Perce Reservation; also serving Asotin County in the State of Washington.
Illinois: Cook	1,138,266	New City, West Englewood, and Englewood Communities.
Indiana: None.		
Iowa: None.		
Kansas: None.		
Kentucky:		
Bourbon	2,211,967	Entire County.
Fayette	.....	Entire County.
Harrison	.....	Entire County.
Nicholos	.....	Entire County.
Scott	.....	Entire County.
Louisiana: Orleans Parish	2,001,807	Entire Parish.
Maine: None.		
Maryland: None.		
Massachusetts: Suffolk	1,178,252	City of Boston.
Michigan:		
Ionia	892,986	Entire County.
Isabella	.....	Entire County.
Gratiot	.....	Entire County.
Montcalm	.....	Entire County.
Chippewa	1,571,440	Bay Mills Reservation.
Baraga	.....	Keweehaw Reservation.
Gogebic	.....	Lac Vieux Desert Reservation.
Menominee	.....	Hannahville Reservation.
Delta	.....	Little Traverse Bay Band Reservation.
Emmet	.....	Little Traverse Bay Band Reservation.
Charlevoix	.....	Pokagom Reservation.
Otsego	.....	Pokagom Reservation.
Cass	.....	Pokagom Reservation.
Berrien	.....	Entire County.
Van Buren	.....	Entire County.
Minnesota: None.		
Mississippi:		
Calhoun	1,332,293	Entire County.
Lauderdale	.....	Meridian.
Leflore	.....	Greenwood.

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
Perry	.....	Entire County.
Printiss	.....	Entire County.
Warren	.....	Vicksburg.
Missouri: None.		
Montana: None.		
Nebraska: Douglas	1,224,593	*City of Omaha:* an area bordered on the North by I–680; on the East by the Missouri River; on the South by Harrison Street (Sarpy County Line); and on the West by 72nd Street.
Nevada:		
Clark	1,290,433	Las Vegas, North Las Vegas and Henderson.
Elko	.....	Entire County.
Whitepine	.....	Entire County.
New Hampshire: None.		
New Jersey: None.		
New Mexico:		
Bernalillo	1,906,549	Within Bernalillo County, boundaries are described as the following: (1) Eastern boundary is the Sandia Mountains, south to Kirtland AFB, west to Wyoming Blvd., and north to Indian School. (2) Eastern boundary is Wyoming Blvd, south to Kirtland AFB, west to Louisiana at San Pedro at Louisiana, and north to Copper. (3) Eastern boundary is the Sandia Mountains, south to Indian School, west to Eubank and north to the Bernalillo County line. (4) Eastern boundary is Eubank on the East, south to Indian School, west to San Mateo, south to Indian School at Montgomery, and north to the Bernalillo County line. (5) Eastern boundary is San Mateo, south to the I–40 Freeway at Candelaria, west to Rio Grande and Edith, and north to Ortega Road. (6) Eastern boundary is Rio Grande River, south to Bridge Street, west to 98th Street, and north to I–40. (7) Eastern boundary is 98th Street, south to 122nd Street at Valley Road, west to 122nd Street, and north to I–40. (8) Eastern boundary is Tapia to Joe Sanchez Road, south to Rio Bravo, west to Coors, and north to Arenal. (9) Eastern boundary is Girard, south to Airport Terminal Road, west to I–25, and north to Coal. (10) Eastern boundary is Val Verde, south to Gibson to Smith, west to Girard, and north to Silver.
San Juan	2,058,806	Entire County, except the Alamo Navajo Reservation.
Santa Fe	.....	Entire County.
Sandoval	.....	Cities of Bernalillo, Cuba, and Rio Rancho.
Torrance	.....	Entire County.
New York: None.		
North Carolina:		
Rowan	1,089,411	Entire County.
Davison	.....	Entire County.
Montgomery	.....	Entire County.
Moore	.....	Entire County.
Stanley	.....	Entire County.
Wayne	1,295,147	Entire County.
North Dakota		
Benson	486,892	Entire County with the exception of the Spirit Lake Reservation boundary.
Ramsey	.....	Entire County with the exception of the Spirit Lake Reservation boundary.
Wells	.....	Entire County.
Ohio: None.		
Oklahoma:		
Creek	1,294,163	Entire County.
Okmulgee	.....	Entire County.
Tulsa	.....	An area bounded on the West by the Creek County line; on the South by the Okmulgee County line; on the East, by Hwy 75, from the Okmulgee County line north to 71st St., east to Peoria Avenue, and north to 15th St; and on the North by 15th Street to the Arkansas River to the Creek County line.
Potawatomi	342,058	The Sac, Fox and Absentee Shawnee Districts of Potawatomi County.
Oregon: Multnomah	2,410,009	*City of Portland:* an area bounded by the Willamette River on the West; the Columbia River on the North; Holgate Blvd on the South; and N.E. 122nd Ave to the East (excluding the Enterprise Zone between N.E. Skidmore and N.E. Tillamook Streets).
	700,900	*City of Portland:* an area bounded by Holgate Avenue on the North; the Multnomah County line to the South; S.E. 45th Street to the West; and 122nd Avenue to the East. After 122nd, the service area extends North to Burnside and out to S.E. 162nd Avenue (Lents Junction).
Pennsylvania: None.		

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
Rhode Island:		
Bristol	1,204,567	Bristol, Warren and Barrington.
Newport	.....	Entire County.
Providence		Town of East Providence.
South Carolina: None.		
South Dakota:		
Jackson	1,165,251	Pine Ridge Reservation.
Shannon	.....	Pine Ridge Reservation.
Tennessee: None.		
Texas: None.		
Utah: None.		
Vermont: None.		
Virginia: None.		
Washington		
King	805,124	*City of Seattle:* Yesler Terrace, Holly Park, High Point, and Rainer Vista Public Housing Districts.
Snohomish	339,150	City of Everett.
Asotin	(see Nez Perce, ID).	(see Nez Perce, ID).
West Virginia: None.		
Wisconsin: None.		
Wyoming: Fremont	524,629	Wind River Reservation.
District of Columbia: None.		
Commonwealth of Puerto Rico: Municipality of Carolina.	1,177,703	Carolina
Part II: Applications for Part II Are Due April 1, 2002		
Alabama: None.		
Alaska: None.		
Arizona: None.		
Arkansas: Sebastian	379,331	All of wards one and two on the North side of Fort Smith, joined and bordered by the Arkansas River on the North, East and West, ending to the South at Rogers Avenue, Dodson Avenue, and Euper Lane.
California:		
San Diego	4,875,979	Carlsbad, Encinitas, Del Mar, Solana Beach, Escondido, San Diego, Poway, Coronado, La Mesa, El Cajon, Lemon Grove, Santee, Ramona, Palomar Julain, Anza Borrego, Lakeside, Spring Valley, Jamul, Harbinson Crest, Laguna Pine Valley, Mountain Empire, Alpine, Chula Vista, National City, Imperial Beach, Nestor.
San Francisco	1,305,510	Chinatown, Tenderloin, Visitation Valley; and parts of Northbeach, Civic Center, and Bayview Hunters Point.
Shasta	1,905,903	Entire County.
Siskyu	.....	Community of Weed.
Trinity	.....	Cities of Weaverville and Hayfork.
Colorado: None.		
Connecticut: None.		
Delaware: None.		
Florida: Sarasota	355,729	Sarasota, Cities of Newton, Venice and North Port.
Georgia: None.		
Hawaii: Hawaii	511,920	South Kona, North Kona, South Kahala, North Kahala, and Ka'u.
Idaho: None.		
Illinois:		
Champaign	670,476	Entire County.
Cook	681,572	South Chicago and Lower West Side Communities.
St. Clair	1,201,065	District 1: East St. Louis; District 3: Cahokia; Centreville.
Indiana:		
Blackford	748,478	Entire County.
Grant	.....	Entire County.
Howard	769,692	Entire County.
Miami	.....	Entire County.
Marshall	403,585	Entire County.
Starke	.....	Entire County.
Tippecanoe	547,969	Entire County.
Posey	816,194	Entire County.
Vanderburg	.....	Entire County.
Iowa:		
Allamakee	657,202	Entire County.
Clayton	.....	Entire County.
Blackhawk	1,002,046	City of Waterloo.
Des Moines	696,073	Entire County.

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
Henry	.....	Entire County.
Lee	.....	Entire County.
Louisa	.....	Entire County.
Kansas:		
Atchinson	577,946	Entire County.
Brown	.....	Entire County.
Doniphan	.....	Entire County.
Jefferson	.....	Entire County.
Leavenworth	.....	Entire County.
Marshall	.....	Entire County.
Nemaha	.....	Entire County.
Pottawatomie	.....	Entire County.
Jackson	.....	Entire County, except the Pottawatomie Reservation.
Kentucky: None.		
Louisiana:		
East Baton Rouge Parish	729,986	*City of Baton Rouge:* Starting at the Long Allen Bridge: East to Plank Road (Highway 67); North to Hooper Road (State Highway 408); Northeast on Hooper Road to Greenwell Springs Road (State Highway 37); South and Southwest on Greenwell Springs Road to Airline Highway; Southeast on Airline Highway to Bayou Manchac; West on Bayou Manchac to the Mississippi River; North to the Long Allen Bridge.
Maine: None.		
Maryland: None.		
Massachusetts: Middlesex	816,234	City of Somerville.
Michigan: None.		
Minnesota:		
Anoka	557,788	Entire County.
Becker	915,940	Entire County.
Hubbard	.....	Entire County.
Mahnomen	.....	Entire County.
Mississippi:		
Lee	1,655,454	Tupelo.
Lafayette	.....	Oxford.
Grenada	.....	Grenada.
Marshall	.....	Byhalia, Holly Springs.
Panola	.....	Batesville.
Pontotoc	.....	Entire County.
Tallahatchie	.....	Glendoro.
Tate	.....	Senatobia.
Tunica	.....	Entire County.
Chickasaw	.....	Houston.
Oktibbeha	.....	Starkville.
Clay	.....	West Point.
DeSota	.....	Walls.
Lowndes	.....	Columbus.
Noxubee	.....	Macon.
Missouri:		
St. Charles	1,470,549	Entire County.
Montgomery	.....	Entire County.
Lincoln	.....	Entire County.
Warren	.....	Entire County.
Montana: None.		
Nebraska:		
Adams	1,255,499	Entire County.
Clay	.....	Entire County.
Franklin	.....	Entire County.
Nuckolls	.....	Entire County.
Webster	.....	Entire County.
Hall	.....	Entire County.
Lancaster	1,246,779	City of Lincoln.
Nevada: None.		
New Hampshire: None.		
New Jersey:		
Hudson	617,135	Union City, North Bergen, West New York, Weehawken, Guttenberg, and Seacaucus.
Passaic	452,329	West Milford, Wayne, Ringwood, Bloomingdale, Little Falls, Haledon, Pompton Lakes, and Hawthorne.
New Mexico: Lea	382,483	Hobbs and Lovington.
New York:		

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
Bronx	1,334,471	(1) 3rd Ave. and Courtland Ave. through E. 161st Street; Grand Ave. through East Featherbed Lane; University Ave through West 182nd Street; East 146th Street through 156th Street; West on St. Anns Ave and Union Ave; (2) Fulton Ave. to Park Ave.; (3) East 171st Street and Prospect Ave, through East 182nd; (4) East 183rd Street and East 187th St. to East Mosholu; (5) North on Longwood Ave. and Boston Rd and Jennings St.; (6) Charlotte St. and White Plains Rd; (7) Sedwick Ave. and Goulden Ave through West 242 St.; (8) West 183rd St. and Grand Concourse through Mosholu to Bruckner Blvd; (9) Mott Haven and Hunts Point (Community Board # 1 & 2); (10) Spuyten Duyvil (Community Board # 8); University Heights (Community Board ı7).
Cattaraugus	468,962	Entire County.
Chenango	450,808	Entire County.
Monroe	1,995,614	City of Rochester.
Rensselaer	670,221	Entire County.
Steuben	329,700	Entire County.
Yates		Entire County.
Westchester	941,224	Entire county, excluding the City of White Plains.
Erie	1,277,058	In the City of Buffalo: Teen mothers and pregnant women attending the following high schools: Bennett, Lafayette, Grover Cleveland, Emmerson Vocational, South Park, Riverside, Seneca, Kensington, Alternative, City of Schools, Performing Arts, Buffalo Traditional, Hutch Technical, McKinley, Burgard, and City Honors.
Schenectady	1,057,663	City of Schenectady.
North Carolina:		
Macon	1,373,410	Entire County.
Orange	1,033,956	Entire County.
North Dakota: None.		
Ohio:		
Medina	766,061	Entire County.
Wayne	.....	Entire County.
Oklahoma:		
Choctaw	673,734	Entire County.
McCurtain	.....	Entire County.
Pushmataha	.....	Entire County.
Oklahoma	1,229,092	Oklahoma City: an area bounded on the North by North 50th; on the East by Bryant Avenue; on the South by South 44th; and on the West by Meridian Avenue.
Oregon: None.		
Pennsylvania:		
Bedford	731,016	Entire County.
Centre	898,511	Entire County.
Clearfield	.....	Entire County.
Fulton	324,104	Entire County.
Lackawanna	303,147	Entire County.
Wayne	.....	Entire County.
Pike	.....	Entire County.
Susquehanna	.....	Entire County.
Synder	940,548	Entire County.
Union	.....	Entire County.
Mifflin	.....	Entire County.
Philadelphia	836,403	City of Philadephia: An area bounded by Pine Street on the North; Broad Street on the East; Philadephia Naval Base on the South; and Schuylkill River on the West
Rhode Island: None.		
South Carolina: None.		
South Dakota: Pennington	820,335	Rapid City and the communities of Fox Elder and Rapid Valley within the incorporated limits of Rapid City.
Tennessee: None.		
Texas: Taylor	1,771,957	Abilene Independent School District boundaries.
Utah: None.		
Vermont: None.		
Virginia:		
York	879,473	City of Williamsburg and James City.
Arlington	1,723,326	Entire County.
Loudoun	.....	Entire County.
Prince William	.....	Entire County including Manassas and Manassas Park.
Roanoke	918,305	City of Roanoke.
Washington: None.		

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
West Virginia:		
Cabel	1,190,620	Cities of Huntington and Barboursville.
Lincoln	.....	Towns of Harts and Ranger.
Wayne	.....	Towns of Crum and Fort Gay.
Wisconsin:		
Dane	901,617	Entire County.
Waukesha	497,681	Entire County.
Wyoming: None.		
District of Columbia: None.		
Commonwealth of Puerto Rico:		
Municipal Government of Santa Isabel	910,972	Santa Isabel.
Municipality of Bayamon	675,044	Bayamon.

[FR Doc. 01–23521 Filed 9–19–01; 8:45 am]
BILLING CODE 4184–01–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–046427

Applicant: Ocean Journey, Denver, Colorado.

Applicant requests a permit for acquisition, propagation, educational display, and recovery purposes for the Desert pupfish (*Cyprinodon macularius*) at Colorado's Ocean Journey public aquarium in Denver, Colorado.

Permit No. TE–024755

Applicant: Bureau of Land Management, Kingman Field Office, Kingman, Arizona.

Applicant requests an amendment to an existing permit to allow presence/absence surveys for the Yuma clapper rail (*Rallus longirostris yumanensis*) for recovery purposes within Mohave and Yavapai Counties of Arizona.

Permit No. TE–047349

Applicant: The Oklahoma City Zoo, Oklahoma City, Oklahoma.

Applicant requests a permit for acquisition, propagation, educational display, and recovery purposes for the following species: Bonytail chub (*Gila elegans*); Razorback sucker (*Xyrauchen texanus*); Colorado pikeminnow (*Ptychocheilus lucius*) for their facility in Oklahoma City, Oklahoma.

Permit No. TE–046941

Applicant: Nelson Consulting, Inc., Farmington, New Mexico.

Applicant requests a permit for recovery purposes to conduct surveys for the following species: Southwestern willow flycatcher (*Empidonax traillii extimus*); Black-footed ferret (*Mustela nigripes*); Knowlton cactus (*Pediocactus knowltonii*); Mancos milk-vetch (*Astragalus humillimus*) and Mesa Verde cactus (*Sclerocactus mesae-verdae*) within New Mexico.

Permit No. TE–041879

Applicant: Michele Johnson, Houston, Texas.

Applicant requests a permit for rehabilitation and recovery purposes for the Kemp's Ridley sea turtle (*Lepidochelys kempii*) within Texas.

Permit No. TE–831540

Applicant: City of San Marcos, San Marcos, Texas.

Applicant requests a permit for recovery purposes and educational display for the following species: Fountain darter (*Etheostroma fonticola*); Texas blind salamander (*Typhlomolge rathbuni*) at their facility in San Marcos, Texas.

Permit No. TE–045236

Applicant: SWCA, Inc. Albuquerque, New Mexico.

Applicant requests a permit for recovery purposes to conduct surveys for the Interior least tern (*Sterna antillarum*) within New Mexico.

DATES: Written comments on these permit applications must be received within 30 days of the date of publication.

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 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.

Bryan Arroyo,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 01–23414 Filed 9–19–01; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization To Take Marine Mammals

AGENCY: Fish and Wildlife Service.

ACTION: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service

implementing regulations [50 CFR 18.27(f)(3)], notice is hereby given that a Letter of Authorization to take polar bears incidental to oil and gas industry exploration activities in the Beaufort Sea and adjacent northern coast of Alaska has been issued to the following company.

Company: ExxonMobil Production Co
Activity: Exploration
Location: Flaxman Island
Date Issued: August 21, 2001

CONTACT: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: The Letter of Authorization is issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations ''Marine Mammals; Incidental Take During Specified Activities (65 FR 16828; March 30, 2000).''

Dated: August 28, 2001.

Gary Edwards,

Deputy Regional Director.

[FR Doc. 01–23407 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice and Agenda for Rescheduled Meeting of the Royalty Policy Committee of the Minerals Management Advisory Board

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of rescheduled meeting.

SUMMARY: The Secretary of the Interior established a Royalty Policy Committee on the Minerals Management Advisory Board to provide advice on the Department's management of Federal and Indian minerals leases, revenues, and other minerals-related policies. Committee membership includes representatives from States, Indian tribes, allottee organizations, minerals industry associations, the general public, and Federal departments. At this rescheduled 13th meeting, the committee will again consider minority and majority reports on sodium/potassium draft valuation regulations. The Coal and Accounting Relief for Marginal Properties Subcommittees will also present reports. A discussion will be held on the appeals process. The MMS will present reports on coal waste piles, program reengineering, royalty-in-kind (RIK) operations, and the Wyoming and Texas section 8g RIK pilot evaluations. Panels comprised of MMS and guest presenters will discuss topical energy issues, such as proposed energy bills and the Administration's National Energy Policy, and the status of MMS's new financial management system.

DATES: The meeting, rescheduled from September 18, 2001, will be held on Thursday, October 18, 2001, 8:30 a.m. to 5:30 p.m. Mountain Standard time.

ADDRESSES: The meeting will be held at the Sheraton Denver West Hotel, 360 Union Boulevard, Lakewood, Colorado, telephone number (303) 987–2000 or (720) 963–2018.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Fields, Royalty Policy Committee Coordinator, Minerals Revenue Management, Minerals Management Service, P.O. Box 25165, MS 300B3, Denver, CO 80225–0165, telephone number (303) 231–3102, fax number (303) 231–3780, e-mail *gary.fields@mms.gov.*

SUPPLEMENTARY INFORMATION: The location and dates of future meetings will be published in the **Federal Register** and posted on the Internet at *www.mrm.mms.gov/Laws_R_D/RoyPC/RoyPC.htm.* The meetings will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meetings, to the extent time permits, and file written statements with the committee for its consideration. Written statements should be submitted to Mr. Fields, at the email or mailing address listed in the **FOR FURTHER INFORMATION CONTACT** section. Transcripts of committee meetings will be available 2 weeks after each meeting for public inspection and copying at MMS, Building No. 85, Denver Federal Center, Denver, Colorado. Meeting minutes will be posted on the Internet at *www.mrm.mms.gov/Laws_R_D/RoyPC/RoyPC.htm* approximately 1 month after the meeting. These meetings are being held under the authority of the Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C. Appendix 1, and Office of Management and Budget Circular No. A–63, revised.

Dated: September 17, 2001.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 01–23592 Filed 9–18–01; 1:16 pm]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA–403 and 731-TA–895–897 (Final)]

Pure Magnesium From China, Israel, and Russia

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

SUMMARY: The Commission is revising its schedule for the subject investigations as follows: the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on October 11, 2001; the deadline for filing posthearing briefs is October 16, 2001; the Commission will make its final release of information on October 26, 2001; and final party comments are due on October 30, 2001.

EFFECTIVE DATE: September 13, 2001.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Media should contact Peg O'Laughlin (202–205–1819), Office of External Relations. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 14, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–23361 Filed 9–19–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Section 107 of CERCLA

Notice is hereby given that on August 24, 2001, the United States lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas, in *United States of America* v. *Advanced Resin Systems, Inc.,* No. H–99–4357, a case brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9607. The proposed Consent Decree resolves civil claims of the United States against Dixie Chemical Company, Inc. (''Dixie'') in connection with the Archem Site, located in Texas. Dixie will pay a total of $350,000.00 to the United States in reimbursement of response costs incurred at the Site by the United States Environmental Protection Agency.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *United States of America* v. *Advanced Resin Systems, Inc.,* DJ No. 90–11–2–1328/1.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Texas, 515 Rusk, Ste. 3300, Houston, Texas 77002, and the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, 75202. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC. 20044–7611. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $3.75, payable to the Consent Decree Library.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23367 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Consent Judgments Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that a proposed consent decree in *United States* v. *Alcolac, Inc., et al.*, Civ. No. 01–4097 (AJL), DOJ #90–11–3–06297, was lodged in the United States District Court for the District of New Jersey on August 28, 2001. The consent decree partially resolves the liability of seventy-eight (78) defendants under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607(a), relating to the PJP Superfund Site located in Jersey City, New Jersey (the ''Site'').

Under the proposed consent decree, the settling defendants will pay the sum of $233,000 toward reimbursement of the United States' past response costs for the Site in return for a covenant not to sue for past response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Alcolac, Inc. et al.,* DOJ #90–11–3–06297. The proposed consent decree may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, Room 502, Newark, New Jersey 07102; and at the Region II Office of the U.S. Environmental Protection Agency, 290 Broadway, New York, New York 10278. Copies of the consent decree may be obtained by mail from the Consent Decree Library, United States Department of Justice, PO Box 7611 Ben Franklin Station, Washington, DC 20044. In requesting a copy of the consent decree, please enclose a check in the amount of $28.50 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23365 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Section 107 of CERCLA

Notice is hereby given that on September 6, 2001, the United States lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas, in *United States of America* v. *Atlantic Richfield Company, et al.*, No. H–98–0408, a case brought under section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9607. The proposed Consent Decree resolves civil claims of the United State and the State of Texas against 28 Settling Defendants and third party defendants in connection with the Sikes Disposal Pits Superfund Site, located in Crosby, Texas. The Settling Defendants will pay a combined total of $120,000,000, plus interest, in reimbursement of response costs incurred at the Site by the United States and the State of Texas. Under the Consent Decree, the United States will receive $111,300,000, plus interest, and the State of Texas will receive $8,700,000, plus interest.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States of America* v. *Atlantic Richfield Company, et al.*, DJ No. 90–11–3–1419. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of the Resource, Conservation & Recovery Act (''RCRA''), 42 U.S.C. 6973 (d).

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Texas, 515 Rusk, Ste. 3300, Houston, Texas 77002, and the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, 75202. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check for reproduction costs (at 25 cents

per page) in the amount of $16.25, payable to the Consent Decree Library.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23366 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 4, 2001, a proposed consent decree in *United States* v. *Ciba specialty Chemicals Corporation, et al.,* Civil Action No. 01–CV–4223, was lodged with the United States District Court for the District of New Jersey.

In this action, the United States alleges under, *inter alia,* Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9606 and 9607, that Ciba Specialty Chemicals Corporation and Novartis Corporation are liable for injunctive relief and the federal government's costs in responding to the release of threatened release of hazardous substances at the Ciba-Geigy Superfund Sited in Toms River, Ocean County, New Jersey (the Site). Under the terms of the proposed consent decree, the settling defendants will implement cleanup actions relating to source control and soils at the Site and will pay the United States the sum of $250,000 with respect to the United States' claims. This settlement, in conjunction with earlier settlements in this matter, will result in the United States recovering over $170 million in cash and work in relation to the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed partial consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Ciba Specialty Chemicals Corporation, et. al.,* Civil Action No. 01–CV–4233, D.J. Ref. 90–11–2–289/1.

The proposed consent decree may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, Newark, New Jersey 07102, and at U.S. Environmental Protection Agency Region II, 290 Broadway, New York, New York 10007–1866. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. If requesting a copy of the proposed consent decree without appendices, please so note and enclose a check in the amount of $11.00 (25 cent per page reproduction cost). If requesting a copy of the proposed consent decree with appendices, please so note and enclose a check in the amount of $56.00.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23364 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2169–01]

Aliens Seeking Relief Pursuant to Settlement Agreement in *Walters* v. *Reno*

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: On February 22, 2001, the district court approved a class action settlement agreement in the case of *Walters* v. *Reno,* which had challenged the Immigration and Naturalization Service's (Service) implementation of the civil document fraud provisions of section 274C of the Immigration and Nationality Act (Act). This notice details the procedures for requesting joint motions to re-calendar, reopen or remand removal proceedings pursuant to the settlement agreement and for requesting refunds for section 274C civil money penalties previously paid to the Service. This notice informs class members of their rights for administrative and judicial review of determinations made pursuant to the settlement agreement. Class members have until August 21, 2003, to file requests for motions to re-calendar, reopen or remand deportation proceedings and for refunds.

DATES: This notice is effective September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Warren McBroom, Immigration and Naturalization Service, 425 I Street, NW, Suite 6100, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION:

Background

On February 22, 2001, the district court approved a class action settlement agreement in the case of *Walters* v. *Reno,* Civ. No. 94–1204C (W.D. WA). The lawsuit challenged the Service's implementation of the civil document fraud provisions of section 274C of the Act. Specifically, certain aliens claimed that the Service's procedures and forms inadequately informed them of their rights to dispute or contest charges that they committed document fraud in violation of section 274C of the Act.

Pursuant to the agreement, on August 21, 2001, the Service completed vacating all section 274C final orders issued against class members. The Service is not permitted to recharge such class members under section 274C of the Act for the same conduct charged in the original Notice of Intent to Fine (NIF). Further, the Service is not permitted to charge class members as being deportable under section 237(a)(3)(C) of the Act or inadmissible under section 212(a)(6)(F) of the Act based on the same conduct charged in the original NIF.

The settlement agreement requires the Service, in certain instances, to join in a motion to re-calendar, reopen or remand deportation proceedings. The settlement agreement also provides class members with avenues for administrative and judicial review of any determinations made pursuant to the settlement agreement. Finally, the settlement agreement permits class members who previously paid section 274C civil money penalties to the Service to seek refunds for such payments.

Who is Considered a Class Member Under the *Walters* v. *Reno* Settlement Agreement?

All non-citizens who waived or failed to request a hearing under Section 274C of the Immigration and Nationality Act (''INA'') after being served, prior to October 1996, with the charging forms and a notice of intent to fine challenged in *Walters* v. *Reno.*

The settlement agreement in *Walters* v. *Reno,* however, does *not* include any alien who was the subject of a notice of intent to fine if the alien did request a hearing under section 274C before an administrative law judge in the Office of the Chief Administrative Hearing Officer, as provided in 28 CFR part 68. Thus, an alien who is subject to a section 274C final order is not a class member if he or she had requested a hearing with respect to that order, and, accordingly, the provisions of the

settlement agreement and this Notice do not apply in that situation.

The settlement agreement also does not include any alien who is served with a revised section 274C notice of intent to fine form created pursuant to the agreement.

In Which Cases Will the Service Join in a Motion To Re-Calendar a Deportation Proceeding That Was Administratively Closed?

The Service will join a class member whose section 274C order was vacated pursuant to the settlement agreement in a motion to re-calendar deportation proceedings that were administratively closed by either an immigration judge or the Board of Immigration Appeals (Board) pending final resolution of the issues involved in *Walters* v. *Reno.*

In Which Cases Will the Service Join in a Motion To Reopen or Remand Deportation Proceedings?

The Service is required to join a class member in a motion to reopen or remand deportation proceedings, but only if all of the following conditions apply:

(1) The original proceedings were based, in whole or part, on a section 274C final order vacated pursuant to the settlement agreement; and

(2) The Service receives a written request from the class member by August 21, 2003; and

(3) The class member either:

(i) Is no longer deportable as a result of the section 274C final order being vacated; or

(ii) Is seeking to apply for relief from deportation or removal for which he or she is prima facie eligible, as a result of the section 274C final order being vacated, under the law in effect when his or her written request is received by the Service.

How Does a Class Member Submit a Request for a Motion To Reopen or Remand Deportation Proceedings?

Class members seeking a motion to reopen or remand deportation/removal proceedings pursuant to the settlement agreement must file a request, in writing, with the Service. The written request must be submitted to the Service Office of the District Counsel where the deportation/removal proceedings were completed before the immigration judge. Class members may obtain the address for the local district counsel by contacting the National Customer Service Number at 1–800–375–5283 or accessing the Service internet web site at *http://www.ins.usdoj.gov.*

What is the Deadline for Submitting a Request for Reopening or Remand of Deportation Proceedings?

The written request must be physically received by the Service no later than August 21, 2003. A written request received by the Service after that date is not timely regardless of when it was mailed.

Will the Service Deport or Remove a Class Member While His or Her Motion To Reopen or Remand Proceedings Is Pending?

No. If the Service agrees to join in a motion to reopen or remand, the Service will refrain from action to deport or remove the alien while the motion is pending before the immigration judge or the Board.

When Will the Service Decline To Join in a Class Member's Motion To Reopen or Remand Deportation or Removal Proceedings?

The Service will decline to join in a motion to reopen or remand deportation proceedings as provided in this Notice in any of the following instances:

(1) If a class member is not prima facie eligible to apply for relief from deportation or removal, as a result of the section 274C final order being vacated, under the law in effect when his or her written request is received by the Service;

(2) If the class member fails to make a written request to the Service (or the Service fails to receive such a request) by August 21, 2003; or

(3) If the prior deportation or removal order was not based, in whole or part, on section 274C of the Act.

What Rights Do Class Members Have if the Service Does Not Agree To Join in a Motion To Reopen or Remand Deportation or Removal Proceedings?

If the Service declines to join in a motion to reopen or remand deportation or removal proceedings as provided in this Notice, the Service will send a written decision to the alien's last known address. The alien will then have 60 days from the date of this written decision to file a motion with the United States District Court for the Western District of Washington. The district court's decision shall be limited to a determination as to whether the class member has established by clear and convincing evidence that he or she met the requirements for the joint motion.

Will the Service Deport or Remove a Class Member While He or She Is Waiting for the District Court To Review a Decision by the Service To Not Join the Motion To Reopen or Remand Deportation Proceedings as Provided in the Settlement Agreement?

No, the Service will refrain from taking enforcement action while a class member's motion for review as provided in the settlement agreement is pending with the district court. However, if the class member fails to file a motion for review with the district court within 60 days of the date of the Service's written decision, the Service may proceed with deportation or removal. Also, if the district court denies a class member's motion for review and the court decision becomes final after all appellate rights have been exhausted, the Service may proceed with deportation or removal.

The Service, however, may only remove a class member if there is at least one other ground of deportability or inadmissibility that is unrelated to the class member's vacated section 274C final order.

Will the Service Inform a Class Member of His or Her Rights and Responsibilities Under the Settlement Agreement if It Seeks To Take Enforcement Action on a Class Member's Deportation or Removal Order?

Yes. Until August 21, 2003, if the Service seeks to take enforcement action to deport or remove a class member based in part on a section 274C order, the Service will provide written notice to the class member of his or her rights. The Service will also advise the class member of his or her right to counsel at his or her own expense, and will provide the name, address, and telephone number of plaintiffs' counsel. The Service will refrain from taking enforcement action on a class member's deportation or removal order for 30 days from the date of the written notice, providing the class member with time to submit a written request to the Service to recalendar, reopen or remand the deportation or removal proceedings pursuant to the settlement agreement.

If the Service does not receive a class member's request by the end of the 30-day period, the Service may proceed with enforcement action on the deportation or removal order, but only if the deportation or removal order is based on at least one ground of deportability or inadmissibility unrelated to the class member's vacated section 274C final order.

Can a Class Member Still Pursue a Motion To Reopen or Remand Deportation Proceedings if He or She Is Outside the United States?

Yes. If a class member who is currently outside the United States files a written motion to reopen or remand deportation proceedings, and the Service agrees to join in the motion, the Service will arrange to either parole the alien into the United States or offer some alternative method for the alien to enter to pursue his or her claim.

If the Service declines to join in such a motion filed by a class member who is currently outside the United States, and the alien seeks judicial review as provided by the settlement agreement, the Service will arrange to either parole the class member into the United States or offer some alternative method for the alien to enter at the appropriate time for the limited purpose of attending any evidentiary hearing related to proceedings before the district court.

Will the Service Pay for a Class Member's Travel Expenses and Accommodations While in the United States?

The Service will not pay expenses for class members. All class members are responsible for their own travel arrangements, accommodations, and expenses during the pendency of deportation proceedings (or district court proceedings).

Class members also must provide proof to the Service and the Department of State consular officer that they have sufficient documentation and resources to depart the United States at the conclusion of a deportation or removal hearing. Evidence can include a roundtrip ticket and unexpired passport or other documents to permit lawful return to the country of departure. The Service retains the right to inspect and challenge authenticity of this documentation before a class member is paroled or permitted entry into the United States. The Service also retains full authority under the Act to detain any class member who returns to the United States during this period of time.

Are Class Members Entitled to a Refund if They Previously Paid a Civil Money Penalty for a Section 274C Violation?

Yes, class members who previously paid a section 274C civil money penalty are eligible to receive a refund. Refunds will only be for the amount charged on the original NIF and will not include interest.

To request a refund, class members must submit a request, in writing, along with supporting documentation (which can include the original NIF and a copy of the check or money order indicating that the Service processed the payment) that clearly establishes that the section 274C civil money penalty amount charged on the NIF was previously paid to the Service.

The written request must be mailed to the Service's Debt Management Center at the following address: U.S. Immigration and Naturalization Service, Eastern Regional Office 1888 Harvest Lane, Williston, VT 05495–7554.

The written request must be physically received by this Service office by August 21, 2003.

Class members whose requests are approved should receive refunds within 90 days of the date the Service receives the refund request.

Dated: September 17, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–23497 Filed 9–17–01; 3:53pm]

BILLING CODE 4410–10–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331]

Nuclear Management Company, LLC; Duane Arnold Energy Center Draft Environmental Assessment and Finding of No Significant Impact Related to a Proposed License Amendment To Increase the Maximum Rated Thermal Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of opportunity for public comment.

SUMMARY: The NRC has prepared a draft environmental assessment of a request by Nuclear Management Company, LLC (NMC or the licensee), for a license amendment to increase the maximum thermal power level at its Duane Arnold Energy Center (DAEC) from 1658 megawatts thermal (MWt) to 1912 MWt, which is a power increase of 15.3 percent. As stated in the NRC staff's February 8, 1996, position paper on the Boiling-Water-Reactor Extended Power Uprate Program, the staff has the option of preparing an environmental impact statement if it believes an extended power uprate (EPU) will have significant impact on the human environment. The staff did not identify a significant impact from the EPU at DAEC; therefore, the NRC staff is documenting its environmental review in an environmental assessment (EA). In accordance with the February 8, 1996, staff position paper, the draft EA and finding of no significant impact is being published in the **Federal Register** with a 30-day public comment period.

DATES: The comment period expires October 22, 2001. Comments received after this date will be considered if practical to do so, but the Commission is able to assure consideration for only those comments received on or before October 22, 2001.

ADDRESSEES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T 6 D59, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland 20852, from 7:45 a.m. to 4:15 p.m. on Federal workdays. Copies of written comments received will be available electronically at the NRC's Public Electronic Reading Room (PERR) link (*http://www.nrc.gov/NRC/ADAMS/index.html*) on the NRC Homepage or at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Brenda Mozafari, Office of Nuclear Reactor Regulation, Mail Stop O 8 H–2, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at (301) 415–2020, or by e-mail at blm@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC is considering issuance of an amendment to Facility Operating License No. DPR–49, issued to NMC, for the operation of the Duane Arnold Energy Center (DAEC), located on the Cedar River in Linn County, Iowa.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow NMC, the operator of DAEC, to incrementally increase its electrical generating capacity by raising the maximum reactor core power level from 1658 MWt to 1912 MWt, 15.3 percent above the current maximum licensed power level. The change is considered an EPU for a BWR because it would raise the reactor core power level more than approximately 7 percent above the original maximum licensed power level. A previous 4.1-percent power uprate, implemented in 1985, raised the original maximum power level from 1593 MWt to 1658 MWt. A power uprate increases the heat output of the reactor to support increased turbine inlet steam flow requirements and increases the heat dissipated by the

condenser to support increased turbine exhaust steam flow requirements.

The proposed action is in accordance with NMC's application for amendment dated November 16, 2000, as supplemented April 16 (2 letters), April 17, May 8 (2 letters), May 10, May 11 (2 letters), May 22, May 29, June 5, June 11, June 18, June 21, June 28, July 11, July 19, July 25, August 1 (2 letters), August 10, August 16, and August 21, 2001, and NMC's ''Supplement to DAEC Environmental Report,'' submitted on September 22, 2000, in advance of the application.

Need for the Proposed Action

Alliant Energy—IES Utilities (Alliant), the principal owner of DAEC,[1] has compared the projected load growth to its electrical generating capacity and has determined a need for additional capacity in its territory. Alliant's obligated capacity is expected to increase by 2 percent per year. The proposed EPU would add 80 megawatts of electrical generating capacity to the grid. The estimated cost of adding this generating capacity is approximately half the cost of purchasing power and one-third the cost of providing the power by constructing a new combined-cycle, natural-gas-fueled facility. Therefore, Alliant concluded that increasing DAEC's capacity would be the most economical option for increasing power supply. Furthermore, unlike fossil fuel plants, DAEC does not routinely emit sulfur dioxide, nitrogen oxide, carbon dioxide, or other atmospheric pollutants.

Environmental Impacts of the Proposed Action

At the time of the issuance of the operating license for DAEC, the NRC staff noted that any activity authorized by the license would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of DAEC, which was issued in March 1973. The original operating license for DAEC allowed a maximum reactor power level of 1593 MWt. On September 22, 2000, NMC submitted a supplement to its Environmental Report supporting the proposed EPU action and provided a summary of its conclusions concerning the environmental impacts of the proposed action. Based on the NRC staff's independent analyses of the nonradiological and radiological impacts and the evaluation performed by the licensee, the staff has concluded that the environmental impacts of the EPU are bounded by the environmental impacts previously evaluated in the FES because the EPU does not involve extensive changes to plant systems that directly or indirectly interface with the environment. Additionally, the licensee states that no changes to the National Pollutant Discharge Elimination System permit issued by the State would be necessary.

Nonradiological Impacts

The following is the NRC staff's evaluation of the nonradiological environmental impacts of the EPU on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, and social and economic conditions at DAEC.

Land Use Impacts

The proposed EPU would not modify the land use at the site, nor have any impacts on lands with historic or archeological significance. The licensee states that it has no plans to construct any new facilities or alter the land around existing facilities, including buildings, access roads, parking facilities, laydown areas, onsite transmission and distribution equipment, or power line rights-of-way, in conjunction with the EPU. The EPU would not significantly affect the storage of materials, including chemicals, fuels, and other materials stored above or under the ground. The EPU would not alter the aesthetics of the site. Therefore, the FES conclusions for impacts on land use would remain valid under EPU conditions.

Water Use Impacts

The staff evaluated surface water use and groundwater use as environmental impacts of water usage at DAEC.

Surface Water Use

An EPU is accomplished by increasing the heat output of the reactor, thereby increasing the steam flow to the turbine, for which increased feedwater flow is needed. The increased heat load on the cooling tower would cause evaporative losses to increase; therefore, cooling tower makeup to the circulating water system increases to compensate for the increase in evaporative losses. Cooling tower makeup at DAEC is supplied by the Cedar River and well water systems. The EPU would not change the amount of water withdrawn from the well water system. The EPU would require an increase in river water use; however, the licensee stated that DAEC would not use more river water than permitted. In accordance with the water appropriation limits of the Iowa Department of Natural Resources (IDNR), DAEC may withdraw a maximum of 12,575 million gallons per year (MGY) from the Cedar River at a rate of 27,000 gallons per minute (gpm) minus the total well water withdrawal rate (3000 gpm). Special operating restrictions apply at lower-than-average river flows if the withdrawal would reduce the river flow to less than 500 cubic feet per second (cfs). A maximum flow rate of 11,000 gpm and an annual withdrawal rate of 5782 MGY were analyzed in the FES. During the years 1996 through 1999, the flow at DAEC averaged 5680 gpm. The licensee predicts the flow will be 6700 gpm under EPU conditions. The predicted flow average under EPU conditions is approximately 40 percent less than that analyzed in the FES and is below the IDNR-permitted limits. In the period 1996–1999, the annual withdrawal rate at DAEC averaged 3000 MGY; the licensee projects it will be 3540 MGY under EPU conditions. The 3540 MGY projected average flow withdrawal rate is also below the value evaluated in the FES and the IDNR-permitted limit of 12,575 MGY. The EPU would have no impact on the number of cooling tower concentration cycles or on the cooling tower flow rate. Therefore, current water appropriation limits would be maintained and the conclusions in the FES would remain valid under the proposed EPU conditions.

Groundwater Use

The staff evaluated the consumption of groundwater as an environmental impact of the proposed EPU. Groundwater use at DAEC is governed by a permit issued by the IDNR. The permit limits DAEC to 1575 MGY with the flow from all pumps not to exceed 3000 gpm. A maximum flow rate of 1500 gpm and a withdrawal rate of 788 MGY were evaluated in the FES. The average annual groundwater withdrawal rate for DAEC is 762 MGY, with a normal system flow averaging 1420 gpm.

The licensee stated that the proposed EPU would not increase the consumption of groundwater, would not impact the well water system flow path, and does not require any additional cooling capacity from the groundwater in order to shed heat loads. Therefore, the staff's conclusions in the FES on groundwater use are valid for the proposed EPU.

[1] On January 10, 2001, the NRC published in the **Federal Register** (66 FR 2009) an Environmental Assessment and Finding of No Significant Impact regarding a requested change to the DAEC operating license to reflect the proposed change in the owner's name from IES Utilities, Inc., to Interstate Power and Light Company. The NRC's final action regarding the requested name change is pending.

Discharge Impacts

The staff evaluated environmental impacts such as cooling tower fogging, icing, drift, noise, chemical discharges to surface water, sanitary waste discharges, blowdown, thermal plume spread, temperature of the river water, cold shock to aquatic biota, hazardous waste effluents, and air emissions.

Cooling Tower Fogging, Icing, Drift, and Noise

Environmental impacts such as fogging, icing, cooling tower drift, and noise could result from the increased heat load on the cooling tower under EPU conditions. In the FES, the staff concluded that the operation of the DAEC cooling towers may slightly increase fogging and icing in nearby areas. The staff stated that cooling tower drift was estimated to be a maximum of 0.1 percent of cooling water flow, or 0.65 cubic feet per second (290 gpm). The estimates were based on anticipated evaporation and drift rates of 2.25 percent and 0.5 percent of tower flow, respectively. The licensee stated that the total hours of fogging would increase by approximately 1.1 hour per year above the nominal 240 hours per year, and that icing would be insignificant. The proposed EPU would not change the cooling tower flow or drift rate; however, the evaporation rate was calculated to increase to approximately 3 percent.

Since the original analysis in the FES, the cooling towers at DAEC have been upgraded by replacing the wooden drift eliminators with polyvinyl chloride (PVC) drift eliminators. The PVC drift eliminators allow water droplets to return to the cooling tower air stream and channel water to the cooling tower's cold water basin, which reduces evaporation and drift losses. Consequently, the licensee's analysis of the effect of the EPU on fogging is conservative.

After considering the increase in heat load on the cooling towers, the staff concluded that the incremental effects of fog attributable to the proposed EPU would be negligible and would continue to be bounded by the FES. Other cooling tower impacts, such as drift and icing, would not be expected to change as a result of the EPU. Therefore, the staff finds that the conclusions in the FES for fogging, icing, and cooling tower drift would be valid under the proposed EPU conditions.

The FES also stated that the operation of the cooling towers would result in a noticeable, but acceptable, increase in the noise level at the nearest dwelling. The proposed EPU would not significantly change the character, sources, or energy of noise generated at DAEC. The new equipment necessary to implement the EPU would be installed within existing plant buildings and no significant increase in ambient noise levels within the plant would be expected. Therefore, the FES conclusions for noise levels would remain valid under EPU conditions.

Chemical and Sanitary Discharges

Surface water and wastewater discharges are regulated by the State of Iowa. The National Pollutant Discharge Elimination System (NPDES) permit is periodically reviewed and reissued by the IDNR. The present NPDES permit for DAEC authorizes discharges from two outfalls, only one of which would be affected by the EPU.

The use of chemicals and their subsequent discharge to the environment would not be expected to change significantly as a result of the proposed EPU. The cooling tower concentration cycle would remain within the current range of 3.5 to 4.0. Therefore, the concentration of pollutants in the effluent stream would remain the same. No changes to the sanitary waste systems or to the parameters regulated by the NPDES permit would be needed to accomplish the EPU. Sanitary waste from DAEC is discharged directly to the DAEC sewage treatment plant in accordance with a permit from the State of Iowa.

Blowdown

Total discharge would increase linearly with blowdown flow. It is anticipated that the blowdown flow would increase 18 percent as a result of the EPU. Blowdown for the circulating water system is discharged into the Cedar River. The FES conservatively assumed a blowdown flow rate of 4000 gpm. The actual blowdown flow rate is 1570 gpm and the blowdown flow rate calculated for EPU conditions would be 1850 gpm. During winter, the season which DAEC discharges would have the greatest impact on river water temperature, the actual average blowdown temperature is 30 degrees Fahrenheit (°F) less than that assumed in the FES. The EPU would increase the blowdown discharge temperature by approximately 1.6 °F. Typical discharge temperatures and flow rates are below the current limits so it would not be necessary to modify the NPDES permit to implement the proposed EPU.

Thermal Plume Spread and Temperature of River Water

The actual average blowdown flow rate is 1,570 gpm. The FES assumed a value of 4,000 gpm. The increased values for uprated power blowdown temperature and flow are still bounded by the calculation of the FES. Consequently, the FES conclusions remain valid. The FES concluded that the thermal plume would be less than 1 acre in area and would reach less than a quarter of the reach across the river. The EPU would increase the discharge temperature by 1.6 °F and the flow rate by 18 percent. However, the EPU would not noticeably increase the plume size.

Under worst-case winter conditions, the 2 °F isotherm was predicted to extend about 250 feet downstream with a width of about 70 feet. A discharge temperature of 72 °F for the month of January was analyzed in the FES. Historically, in winter, when discharges would have the greatest impact on river water temperature, the actual average blowdown temperature is 30 °F less than that assumed in the FES. The average discharge temperature (from 1961 to 1990) for the month of January was 36 °F, and, as stated above, the EPU would increase the discharge temperature by only 1.6 °F. Consequently, the actual size of the thermal plume is smaller than predicted in the FES.

Under worst-case summer conditions, with the same assumptions and data used to calculate the circulating water discharge temperature, the 2 °F isotherm was predicted to extend about 75 feet downstream of the discharge point with a width of about 35 feet. Thermal mapping conducted in August 1989, demonstrated the conservative nature of the assumptions in the FES. The mapping was performed at 100–percent reactor power. The 2 °F isotherm extended to between 100 and 150 feet downstream, and was restricted to within 10 feet of the bank (*i.e.* 10 feet wide). At 150 feet downstream, there was no detectible plume. The total plume area was less, therefore, than that predicted for the 2 °F isotherm in the FES, and, as stated above, the EPU would not noticeably increase the plume size. The staff concludes the plumes for both summer and winter cases are bounded by the FES. The conditions analyzed in the FES would be expected to remain valid under the proposed EPU conditions.

Cold Shock

Cold shock to an aquatic biota occurs when the warm water discharge from a plant abruptly stops because of an unplanned shutdown, resulting in a temperature drop of the river water and the possible adverse impact on aquatic biota. The probability of an unplanned shutdown is independent of a power

uprate. As discussed previously, the discharge canal temperature at EPU conditions would be at least 10 °F less than the value evaluated in the FES. Additionally, the plume size would not increase appreciably under power uprate conditions and would be smaller than analyzed in the FES. Therefore, the risk of aquatic biota mortality by cold shock would continue to be bounded by the conclusions in the FES.

Hazardous Waste Generation and Air Emissions

Hazardous waste generated from routine plant operations and air emissions from the plant heating boiler and diesel generators are controlled by county permits. A power uprate would not have a significant impact on the quality or quantity of effluents from these sources, and operation under EPU conditions would not reduce the margin to the limits established by the applicable permits. Therefore, the conclusions in the FES would remain valid.

Terrestrial Biota Impacts

The proposed EPU would not result in a land disturbance that could adversely impact the habitat of any terrestrial plant or animal species. The licensee stated that according to a recent review by the IDNR, there were no known rare or endangered terrestrial species within the area of the site boundary. Additionally, the licensee stated that land use would remain the same as evaluated in the FES. Therefore, the staff's conclusions in the FES about the impact on terrestrial ecology, including endangered and threatened plant and animal species, would remain valid for the proposed EPU.

Aquatic Biota Impacts

The impacts of operation of the river water intake include impingement of fish on the traveling screens at the intake structure and the entrainment of benthic organisms. The losses associated with the impingement and entrainment of organisms were assessed in the FES and were judged to be insignificant. The effect of the EPU on the impingement and entrainment of organisms also would be insignificant. Fish impingement totals are typically less than 500 fish per year and are considered to be very low, considering the size and composition of the fish population in the Cedar River. Additionally, the licensee stated that there were no known rare or endangered aquatic species in the plant site vicinity. Therefore, the staff's conclusions in the FES as to impingement, entrainment, and endangered and threatened aquatic species would remain valid for the proposed EPU.

Transmission Facility Impacts

Environmental impacts, such as exposure to electromagnetic fields (EMFs) and shock could result from a major modification to transmission line facilities. However, the licensee stated that no change would be made to the existing transmission line design or operation as a result of the proposed EPU. Higher main transformer capacity would be necessary to deliver the additional power to the offsite grid and certain modifications to offsite substations are being planned to enhance stability at various grid locations. These modifications are consistent with Alliant's program of systematic improvements in grid stability and its commitments to the Mid-Continent Area Power Pool and the Mid-America Interconnected Network; modifications would be performed within existing substations. Therefore, no significant environmental impacts from any changes in transmission facilities design and equipment are expected, and the conclusions in the FES would remain valid.

The rise in generator output associated with EPU would slightly increase the current and the EMFs in the onsite transmission line between the main generator and the plant substation. The line is located entirely within the fenced, licensee-controlled boundary of the plant, and neither members of the public nor wildlife are expected to be affected. Exposure to EMFs from the offsite transmission system is not expected to increase significantly and any such increase is not expected to change the staff's conclusion in the FES that no significant biological effects are attributable to EMFs from high voltage transmission lines.

DAEC transmission lines are designed and constructed in accordance with the applicable shock prevention provisions of the National Electric Safety Code and the EPU would not cause the transmission line design to deviate from the NESC provisions. Therefore, the slight expected increase in current attributable to the proposed EPU does not change the staff's conclusion in the FES that adequate protection is provided against hazards from electrical shock.

Social and Economic Impacts

The staff has reviewed information provided by the licensee regarding socioeconomic impacts, including possible impacts on the DAEC workforce and the local economy. DAEC employs more than 500 people and is a major contributor to the local tax base. DAEC personnel also contribute to the tax base by paying sales and property taxes. The proposed EPU would not significantly affect the size of the DAEC workforce and would have no material effect on the labor force required for future outages. Because the plant modifications needed to implement the EPU would be minor, any increase in sales taxes and local and national business revenues would be negligible relative to the large taxes paid by DAEC. It is expected that improving the economic performance of DAEC through cost reductions and lower total bus bar costs per kilowatt hour would enhance the value of DAEC as a generating asset and lower the probability of early plant retirement. Early plant retirement might have a negative impact upon the local economy and the community as a whole by reducing public services, employment, income, business revenues, and property values, although these reductions might be mitigated by decommissioning activities in the short term. The staff expects that conclusions in the FES regarding social and economic impacts would remain valid under EPU conditions.

The staff also considered the potential for direct physical impacts of the proposed EPU, such as vibration and dust from construction activities. The proposed EPU would be accomplished primarily by changes in station operation and a few physical modifications to the facility. These limited modifications would be accomplished without physical changes to transmission corridors, access roads, other offsite facilities, or additional project-related transportation of goods or materials. Therefore, no significant additional construction disturbances causing noise, odors, vehicle exhaust, dust, vibration, or shock from blasting are anticipated, and the conclusions in the FES would remain valid.

Summary

In summary, the proposed EPU would not result in a significant change in nonradiological impacts on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, or social and economic factors, and would have no nonradiological environmental impacts other than those evaluated in the FES.

TABLE 1.—SUMMARY OF NONRADIOLOGICAL ENVIRONMENTAL IMPACTS OF AN EPU AT DAEC

Land Use Impacts	No change in land use or aesthetics; would not impact lands with historic or archeological significance.
Water Use Impacts	
Surface Water Use	Increase in river water withdrawal rate to 3540 MGY; withdrawal rate would remain within permitted levels, and within levels evaluated in the FES.
Groundwater Use	No change in groundwater use.
Discharge Impacts:	
Fogging	Increase in total hours of fogging per year by 1.1 hour.
Icing	No significant change in icing.
Cooling Tower Drift	No significant change in cooling tower drift.
Noise	No significant change in noise.
Chemical and Sanitary Discharge	No expected change to chemical use and subsequent discharge, or sanitary waste systems; cooling towers would operate in the current cycle range. No changes to sanitary waste discharges.
Blowdown	Increase in blowdown by 18%; blowdown would remain within the permitted limits.
Thermal Plume and Temperature of the River Water	No noticeable increase in thermal plume size. Discharge temperature increase by 1.6 °F; river temperature would remain within National Pollution Discharge Elimination System limit of 9 °F.
Hazardous Waste and Air Emissions	No changes to hazardous waste sources or air emissions.
Terrestrial Biota Impacts	No change in terrestrial biota impacts; no known threatened or endangered species within the site boundary.
Aquatic Biota Impacts:	No change in aquatic biota impacts; no known threatened or endangered species in the area of surface water intake or discharge.
Transmission Line Facility Impacts	No change to transmission line design or operation; higher main transformer capacity would be needed to deliver additional power and these changes would be made within existing substations; no change in exposure to EMFs.
Social and Economic Impacts	No significant change in size of DAEC workforce. Few modifications to physical station facility. No significant disturbances from noise, odor, vehicle exhaust, dust, vibration, or shock would be expected from construction.

Radiological Impacts

The staff evaluated radiological environmental impacts on waste streams, in-plant and offsite doses, accident analyses, and fuel cycle and transportation factors. The following is a general description of the waste treatment streams at DAEC and an evaluation of the environmental impacts.

Radioactive Waste Stream Impacts

DAEC uses waste treatment systems designed to collect, process, and dispose of radioactive gaseous, liquid, and solid waste in accordance with the requirements of 10 CFR Part 20 and Appendix I to 10 CFR part 50. These radioactive waste treatment systems are discussed in the FES. The proposed EPU would not affect the environmental monitoring of these waste streams or the radiological monitoring requirements contained in licensing basis documents. The proposed EPU would not result in any changes in operation or design of equipment in the gaseous, liquid, or solid waste systems. The proposed EPU would not introduce new or different radiological release pathways and would not increase the probability of an operator error or equipment malfunction that would result in an uncontrolled radioactive release. The staff evaluated any changes in the gaseous, liquid, and solid waste streams for radiological environmental impact of the proposed EPU, as set forth below.

Gaseous Radioactive Waste Impacts

During normal operation, the gaseous effluent systems control the release of gaseous radioactive effluents to the site environs, including small quantities of noble gases, halogens, particulates, and tritium, so that routine offsite releases from station operation remain below the limits of 10 CFR part 20 and Appendix I to 10 CFR part 50 (10 CFR part 20 includes the requirements of 40 CFR part 190). The gaseous waste management systems include the offgas system and various building ventilation systems. The proposed EPU assumes an increase in the release rate that is linearly proportional to power increase, and an increase in gaseous effluents would, therefore, occur. The resultant effluent increases in noble gas and iodine-131 activity are 0.3 and 4E–07 microcuries per second, respectively. The staff has evaluated information provided by the licensee and concludes that the estimated dose values would be below Appendix I requirements after the EPU. These dose levels are very small, and have no significant impact on human helath. The effluents for noble gases and effluents are well below those evaluated in the FES. Therefore, the conclusions in the FES would remain valid under EPU conditions.

Liquid Radioactive Waste Impacts

The liquid radwaste system is designed to process and recycle (to the extent practicable) the liquid waste collected so that annual radiation doses to individuals are maintained below the guidelines in 10 CFR part 20 and 10 CFR part 50, Appendix I. DAEC operates as a zero radioactive liquid release plant. The staff expects no change in the zero release policy as a result of the proposed EPU.

Filter backwashing provides decanted sludge water into the liquid radwaste system. Increasing the reactor thermal power by 15 percent would increase the frequency of backwashing necessary to decant backwash water from the reactor water cleanup condensate demineralizer filters by approximately 8 to 10 percent. However, since Alliant maintains a zero radioactive liquid release to the environment, the slight increase in flow to the liquid radwaste system would be recycled instead of discharged.

The EPU conditions would not result in significant increases in the volume of fluid from other sources flowing into the liquid radwaste system. The reactor would continue to be operated within its present pressure control band. Valve packing leakage volume into the liquid radwaste system is not expected to increase. There would be no changes in reactor recirculation pump seal flow or the flow of any other normal equipment drain path. In addition, there would be

no impact on the dirty radwaste or chemical waste subsystems of the liquid radwaste system as a result of the EPU since the operation and the inputs to these subsystems are independent of power uprate. Based on information submitted by the licensee, the staff concludes that no significant dose increase in the liquid pathway would result from the proposed EPU. Therefore, the conclusions in the FES would remain valid under EPU conditions.

Solid Radioactive Waste Impacts

The solid radioactive radwaste system collects, monitors, processes, packages, and provides temporary storage facilities for radioactive solid wastes prior to offsite shipment and permanent disposal. DAEC has implemented procedures to assure that the processing and packaging of wet and dry solid radioactive waste and irradiated reactor components are accomplished in compliance with the regulations.

Wet Waste: The largest volume contributors to radioactive solid wet waste are the spent resin and filter sludges from the process wastes. Equipment waste from operation and maintenance activities, chemical wastes, and reactor system wastes also contribute to solid waste generation. The staff expects that the process wastes generated from the operation of the reactor water cleanup filter demineralizers and the condensate demineralizers will increase by no more than 10 percent. More frequent reactor water cleanup backwashes are anticipated under EPU conditions due to water chemistry limits. The licensee estimates that the backwashes would increase by approximately 8 to 10 percent, resulting in an additional 3 cubic meters of resin waste per year. The resultant total generation rate of approximately 36 cubic meters per year (CMY), is about half the current industry median value of 85 CMY and well below the FES assumed value of 697 CMY. The EPU would not involve changes in either reactor water cleanup flow rates or filter performance. The staff concludes that implementation of the proposed EPU would not have a significant impact on the volume or activity of wet radioactive solid waste at DAEC.

Dry Waste: Dry waste consists of air filters, miscellaneous paper and rags from contaminated areas, contaminated clothing, tools and equipment parts that cannot be effectively decontaminated, and solid laboratory wastes. The activity of much of this waste is low enough to permit manual handling. Dry waste is collected in containers located throughout the plant, compacted as practicable, and then sealed and removed to a controlled-access enclosed area for temporary storage. Because of its low activity, dry waste can be stored until enough is accumulated to permit economical transportation to an offsite processing facility or a burial ground for final disposal. DAEC has indicated that there will be no significant change in the amounts, level of controls, or methodology used for the processing dry radioactive waste at DAEC. The staff concludes that implementation of the proposed EPU should not have a significant impact on the volume or activity of the dry solid radioactive waste at DAEC.

Irradiated Reactor Components: Irradiated reactor components, such as spent control blades, in-core ion chambers, and fuel assemblies, must be disposed of after the life of the component. The volume and activity of waste generated from spent control blades and in-core ion chambers might increase slightly under the higher flux conditions associated with power uprate conditions. This increase would be mitigated by improved longer-lived local power range monitor strings, improved lower-cobalt-content control rod blades, and longer fuel cycles. Additionally, reactor equipment waste is stored in the spent fuel storage pool before removal to in-plant or offsite storage and final disposal in shielded containers or casks. Because of the mitigating effects of extended burnup and increased U–235 enrichment compared to the burnups and enrichment evaluated in the original FES, implementing the EPU would not be likely to have a significant impact on the amount of irradiated reactor components discharged from the reactor.

DAEC plans to load 152 fresh fuel bundles in the initial refueling to commence operation under the EPU. This is approximately 30 bundles more than for the current refueling cycle. Because of the mitigating effects of extended burnup and increased U–235 enrichment on fuel throughput under power uprate operating conditions, the number of irradiated fuel assemblies discharged from the reactor would not increase during subsequent reloads. Additionally, the 24-month operating cycle would result in one less fuel reload before the license expiration. These wastes are currently stored in the spent fuel pool and are not shipped off site. The staff concludes that implementation of the proposed EPU should not have a significant impact on the volume or activity of the irradiated reactor components at DAEC.

The staff has generically evaluated the annual environmental impact of low- and high-level solid wastes for a 1000 MWe reference reactor. The estimated activity of these wastes is given in Table S–3 in 10 CFR 51.51 and would be bounding under the proposed EPU conditions.

Dose Impacts

The staff evaluated in-plant and offsite radiation as part of its review of environmental impacts of the proposed EPU.

In-Plant Radiation

Increasing the rated power at DAEC might increase the radiation levels in the reactor coolant system; however, these potential increases would be compensated for by physical plant improvements and administrative controls, such as shielding, feedwater chemistry, and the plant radiation protection program. Over the past 7 years, DAEC has decreased the occupational dose to DAEC workers by 15 percent per year (based on a rolling 3-year average). The licensee stated that it expects to continue its downward trend while operating under the proposed EPU conditions. The staff evaluated shielding, dose reduction programs, and corrosion as part of its evaluation.

Shielding: DAEC was conservatively designed with respect to shielding and radiation sources. In the shielding analysis, the assumed concentrations for reactor water fission and corrosion products were 4 microcuries per cubic centimeter and 0.06 microcuries per cubic centimeter, respectively. The normal value of both reactor water fission and corrosion products is 0.01 microcuries per cubic centimeters. With expected increases in operating activity proportional to the proposed power increase, the design shielding assumptions remain bounding at EPU conditions.

Feedwater Chemistry: The original design was based on an assumed value for nitrogen-16 (N–16) concentration of 100 microcuries per gram. To support the injection of hydrogen into the feedwater, the licensee conducted a special test in 1989 to evaluate the impact and efficacy of injection rates of up to 45 standard cubic feet per minute (scfm). The licensee stated that the results of this test led to an injection rate of 6 scfm, which yields an acceptable recirculating system electrochemical potential and no discernable N–16 dose rate increase. Between October 1994 and October 1996, the hydrogen injection rate was increased to 15 scfm to extend corrosion

protection to portions of the core internals, with a resultant increase in dose rates of 3.3 times the rates without hydrogen injection. Although occupancy in some areas was restricted, no shielding modifications were required to maintain radiation levels within acceptable levels. Since 1996, DAEC has undertaken a noble metals injection program to protect the core internals from corrosion by reducing hydrogen use. As a result, the current operational hydrogen injection rate is 6.0 scfm. The 20-percent increase in the N–16 dose rate from EPU would not affect the acceptability of the shielding design.

The equilibrium activity concentration of corrosion products that have plated out on reactor coolant piping and other surfaces may theoretically increase by the square of the power uprate increase. This is primarily due to the linear increase in corrosion products in the primary system from the feedwater flow increase and the linear increase in activation events from the core average flux increase. However, this potential increase would be mitigated by four dose reduction programs at DAEC:

1. Oxygen injection in the condensate system started in 1987.

2. Recirculating system chemical decontaminations in 1990, 1992, 1993, and 1995.

3. Stellite reduction efforts started in 1993.

4. Depleted zinc addition started in 1994.

As a result of these efforts, the concentration of soluble cobalt-60 in the reactor water has decreased from 1.3E–04 microcuries per milliliter in early 1987 to 2.7 E–05 microcuries per milliliter in 2000. The potential increases in the volume and activity of activated corrosion products at EPU operating conditions would not negate these efforts, and it is expected that concentrations would continue to decline under EPU conditions. Consequently, operating and shutdown radiation levels would not increase under EPU conditions.

Plant Radiation Protection Program: The plant radiation protection program would be used to maintain individual doses consistent with as-low-as-reasonably-achievable policies and below the established limits of 10 CFR part 20. Routine plant radiation surveys required by the radiation protection program would identify increased radiation levels in accessible areas of the plant, and radiation zone postings and job planning would be adjusted, if necessary. Time within radiation areas is controlled under the radiation protection program. Administrative dose control limits are established well below regulatory criteria and provide a significant margin to regulatory dose limits. The licensee stated that administrative dose limits were not routinely exceeded under present power conditions.

On the basis of the above information, the staff concludes that the expected annual collective dose for DAEC, following the proposed EPU, would still be bounded by the dose estimates in the FES.

Offsite Doses

The slight increase in normal operational gaseous activity levels under the EPU would not affect the large margin to the offsite dose limits established by 10 CFR part 20. In addition, doses from liquid effluents, currently zero, would remain zero under EPU conditions.

The DAEC Technical Specifications implement the guidelines of 10 CFR part 50, Appendix I, which are within the 10 CFR Part 20 limits. Adjusting current values for projected EPU increases, the offsite dose at EPU conditions is estimated to be 2.6 E–03 millirads for noble gas gamma air, 1.6E–02 millirads for noble gas beta air, and 6.8E–03 thyroid millirem for particulates and iodine. The Appendix I limits are 10 millirads, 20 millirads, and 15 thyroid millirem, respectively. The offsite dose would continue to be within the Technical Specification dose limits.

The EPU would not involve significant increases in an offsite dose from noble gases, airborne particulates, iodine, or tritium. Radioactive liquid effluents are not routinely discharged from DAEC. In addition, as stated by the Radiological Environmental Monitoring Program for DAEC, radiation from shine is not now a significant exposure pathway, and it would not be significantly affected by the proposed EPU.

The EPU would not create any new or different sources of offsite dose from DAEC operation, and the EPU would not involve significant increases in present radiation levels. Therefore, under EPU conditions, offsite dose would remain well within regulatory criteria and would not have a significant impact. The staff concludes that the estimated doses from both the liquid and gaseous release pathways resulting from EPU conditions are within the design objectives specified by 10 CFR part 50, appendix I, and the limits of 10 CFR part 20.

Accident Analysis Impacts

The staff reviewed the licensee's analyses and performed confirmatory calculations to verify the acceptability of the licensee's calculated doses under accident conditions. The staff concludes that the proposed EPU would not significantly increase the probability or consequences of accidents and would not result in a significant increase in the radiological environmental impact of DAEC under accident conditions. If the license amendment request is approved, the result of the staff's calculations will be presented in the safety evaluation issued with the license amendment.

Fuel Cycle and Transportation Impacts

The EPU would involve an increase in the average enrichment of the fuel bundle. The environmental impacts of the fuel cycle and of transportation of fuel and wastes are described in Table S–3 and S–4 of 10 CFR 51.51 and 10 CFR 51.52, respectively. Table S–3 of 10 CR 51.51 and S–4 of 10 CFR 51.52 were adopted by the licensee after DAEC received its operating license. Consequently, the DAEC FES does not contain a uranium fuel cycle environmental analysis similar to Table S–3. The impacts of transportation are addressed in the Environmental Report and the FES, although the conclusions are not presented in the format of Table S–4. An NRC assessment (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Table S–3 and S–4 to higher burnup cycles and concluded that there is no significant change in environmental impacts for fuel cycles with uranium enrichments up to 5 weight-percent U–235 and burnups less than 60 gigawatt-day per metric ton of uranium (GWd/MTU) from the parameters evaluated in Tables S–3 and S–4. Because the fuel enrichment for the EPU would not exceed 5 weight-percent U–235 and the rod average discharge exposure would not exceed 60 GWd/MTU, the environmental impacts of the proposed EPU would remain bounded by these conclusions and would not be significant.

Summary

The proposed EPU would not significantly increase the probability or consequences of an accident, would not introduce any new radiological release pathways, would not result in a significant increase in occupational or public radiation exposures, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the NRC concludes that no significant radiological environmental

impacts are associated with the proposed action. Table 2 summarizes the radiological environmental impacts of the proposed EPU.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS OF EPU AT DAEC

Radiological Waste Stream Impacts:	
Gaseous Waste	An increase in release rate that is linearly proportional to the power increase would be expected.
Liquid Waste	No change in DAEC zero liquid release policy.
Solid Waste:	
Wet Waste	Backwashes would increase to create approximately 3 cubic meters of resin per year.
Dry Waste	No significant changes.
Irradiated Components	No significant changes.
Dose Impacts	May potentially increase radiation levels; dose would remain within permitted levels in-plant and offsite.
Accident Analysis Impacts	No significant increase in the probability or consequences of an accident.
Fuel Cycle and Transportation	Increase in bundle average enrichment; impacts would remain within the conclusions of Table S–3 and Table S–4 of 10 CFR Part 51.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

As stated previously, the estimated cost of adding this nuclear generating capacity is approximately half the cost projected for purchasing the power and one-third the cost of producing the power by constructing a new combined-cycle, natural-gas-fueled facility. Alliant concluded that increasing DAEC's capacity would be the most economical option for increasing power supply. Furthermore, unlike fossil fuel plants, DAEC does not routinely emit sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that contribute to greenhouse gases or acid rain.

Alternative Use of Resources

This action does not involve the use of any resources different than those previously considered in the FES for DAEC, dated March 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on August 23, 2001, the NRC staff consulted with the Iowa State official, Mr. D. McGhee of the Department of Public Health, regarding the environmental impact of the proposed action. The State official had no comment.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated November 16, 2000, as supplemented April 16 (2 letters), April 17, May 8 (2 letters), May 10, May 11 (2 letters), May 22, May 29, June 5, June 11, June 18, June 21, June 28, July 11, July 19, July 25, August 1 (2 letters), August 10, August 16, and August 21, 2001, and NMC's ''Supplement to DAEC Environmental Report,'' submitted on September 22, 2000. Documents may be examined and/or copied for a fee at the NRC's Public Document Room, at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, or 301–415–2737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 14th day of September 2001.

For the Nuclear Regulatory Commission.

Brenda L. Mozafari,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–413 AND 50–414

Duke Energy Corporation; Catawba Nuclear Station, Units 1 and 2; Notice of Intent To Prepare An Environmental Impact Statement and Conduct Scoping Process

Duke Energy Corporation (Duke) has submitted an application for renewal of operating licenses NPF–35 and NPF–52 for up to an additional 20 years of operation at Catawba Nuclear Station (Catawba), Units 1 and 2. Catawba is located in York County, South Carolina. The application for renewal was submitted by letter dated June 13, 2001, pursuant to 10 CFR Part 54. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on July 16, 2001 (66 FR 37072). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on August 15, 2001 (66 FR 42893). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement in support of the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29.

In accordance with 10 CFR 54.23 and 10 CFR 51.53(c), Duke submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR Part 51 and is available for public inspection at the NRC Public Document Room located at 11555 Rockville Pike (first floor), or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible at http://www.nrc.gov/NRC/ADAMS/

index.html, (NRC's Public Electronic Reading Room). In addition, the York County Library, located at 138 Black Street, Rock Hill, South Carolina, has agreed to make the ER available for public inspection.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) in support of the review of the application for renewal of the Catawba operating licenses for up to an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. 10 CFR 51.95 requires that the NRC prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations found in 10 CFR Part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in this scoping process by members of the public and local, State, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other environmental impact statements (EISs) that are being or will be prepared that are related to but are not part of the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, Duke Energy Corporation.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who intends to petition for leave to intervene.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice of acceptance for docketing. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the Catawba license renewal supplement to the GEIS. The scoping meetings will be held in the Council Chamber at the City Hall, located at 155 Johnston Street, Rock Hill, South Carolina, on Tuesday, October 23, 2001. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m. The second session will convene at 7:00 p.m. with a repeat of the overview portions of the meeting and will continue until 10:00 p.m. Both meetings will be transcribed and will include (1) an overview by the NRC staff of the National Environmental Policy Act (NEPA) environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; (2) an overview by Duke of the proposed action, Catawba license renewal, and the environmental impacts as outlined in the ER; and (3) the opportunity for interested Government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the Rock Hill City Hall. No scoping comments will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meeting on the NEPA scoping process by contacting Mr. James H. Wilson by telephone at 1 (800) 368–5642, extension 1108, or by Internet to the NRC at jhw1@nrc.gov no later than October 18, 2001. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Wilson's attention no later than October 18, 2001, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scoping process for the supplement to the GEIS to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6 D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. To be considered in the scoping process, written comments should be postmarked by November 22, 2001. Electronic comments may be sent by the Internet to the NRC at CatawbaEIS@nrc.gov. Electronic submissions should be sent no later than November 22, 2001, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will

send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the PERR link. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Wilson at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 13th day of September 2001.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Chief, Risk Informed Initiatives, Environmental, Decommissioning, and Rulemaking Branch, Division of Regulatory Improvements Program, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23446 Filed 9–19–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on October 4–6, 2001, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Friday, November 17, 2000 (65 FR 69578).

Thursday, October 4, 2001

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:15 A.M.: Duane Arnold Core Power Uprate (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff, the Nuclear Management Company, Limited Liability Corporation (LLC), and General Electric Nuclear Energy regarding the license amendment request to increase the core thermal power level for the Duane Arnold Energy Center and the associated staff's Safety Evaluation Report (SER). [NOTE: A portion of this session may be closed to discuss General Electric Nuclear Energy proprietary information applicable to this matter.]

10:35 A.M.–12:30 P.M.: Readiness Assessment for Future Plant Designs and the Staff Proposal Regarding Exelon's Regulatory Licensing Approach for the Pebble Bed Modular Reactor (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's readiness assessment for future plant designs and the staff proposal regarding Exelon's regulatory licensing approach for the Pebble Bed Modular Reactor.

1:30 P.M.–2:30 P.M.: Action Plan to Address ACRS Comments and Recommendations Associated with the Differing Professional Opinion (DPO) on Steam Generator Tube Integrity (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's action plan to address the ACRS comments and recommendations, which are included in NUREG–1740, ''Voltage-Based Alternative Repair Criteria,'' associated with the DPO on steam generator tube integrity.

2:45 P.M.–3:45 P.M.: Proposed Resolution of Generic Safety Issue-173A, ''Spent Fuel Storage Pool for Operating Facilities'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed resolution of Generic Safety Issue-173A and the response to ACRS comments and recommendations included in the June 20, 2000 ACRS report on this matter.

4:00 P.M.–7:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting as well as proposed reports on Reactor Oversight Process, EPRI Report on Resolution of Generic Letter 96–06 Waterhammer Issues, and Response to the August 8, 2001 EDO response to the June 19, 2001 ACRS letter on Risk-Based Performance Indicators.

Friday, October 5, 2001

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:30 A.M.: Interim Review of the License Renewal Application for the Turkey Point Nuclear Power Plant and Westinghouse Topical Reports Related to License Renewal (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Florida Power and Light Company regarding the license renewal application for the Turkey Point Nuclear Power Plant Units 3 and 4, Westinghouse Topical Reports related to license renewal, and the associated staff's Safety Evaluation Reports.

10:50 A.M.–11:20 A.M.: Subcommittee Report (Open)—Report by the Chairman of the ACRS Subcommittee on Materials and Metallurgy regarding the results of the September 26, 2001 meeting during which several matters associated with steam generator tube integrity issues, including revised Steam Generator Action Plan were discussed.

11:20 A.M.–12:00 Noon: Safety Culture and Risk-Informing General Design Criteria (Open)—The Committee will hear a presentation by and hold discussions with Mr. J. N. Sorensen, ACRS Senior Fellow, regarding his draft reports on safety culture and on risk-informing General Design Criteria of Appendix A to 10 CFR Part 50.

1:00 P.M.–1:45 P.M.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

1:45 P.M.–2:00 P.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

2:15 P.M.–3:15 P.M.: Preparation for Meeting with the NRC Commissioners (Open)—The Committee will discuss topics for meeting with the NRC Commissioners scheduled for December 5, 2001.

3:15 P.M.–7:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, October 6, 2001

8:30 A.M.–2:30 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

2:30 P.M.–3:00 P.M.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 11, 2000 (65 FR 60476). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Dr. Sher Bahadur, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Dr. Sher Bahadur prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Dr. Sher Bahadur if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it is necessary to close a portion of this meeting noted above to discuss proprietary information per 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Dr. Sher Bahadur (telephone 301–415–0138), between 7:30 a.m. and 4:15 p.m., EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: September 14, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–23445 Filed 9–19–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension

Regulation S, OMB Control No. 3235–0357, SEC File No. 270–315

Rule 13e–3 and Schedule 13E–3, OMB Control No. 3235–0007, SEC File No. 270–1

Form 12b–25, OMB Control No. 3235–0058, SEC File No. 270–71

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 summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Regulation S governs offers and sales of securities made outside the United States without registration under the Securities Act of 1933. Regulation S is assigned one burden hour for administrative convenience because the regulation simply prescribes the disclosure that must appear in other filings under the federal securities laws.

Rule 13e–3 prescribes the filing, disclosure and dissemination requirements in connection with a going private transaction by an issuer or an affiliate. Schedule 13E–3 provides shareholders and the marketplace with information concerning going private transactions that are important in determining how to respond to such transactions. Approximately 300 issuers file Schedule 13E–3 annually and it takes approximately 139.25 hours per response for a total of 41,775 annual burden hours. It is estimated that 25% of the 41,775 total burden hours (10,444 hours) would be prepared by the company.

Form 12b–25 provides notice to the Commission and the marketplace that a public company will be unable to timely file a required periodic report. Form 12b–25 is filed by publicly held companies. Approximately 6,000 issuers file For 12b–25 and it takes approximately 2.5 hours per response for a total of 15,000 burden hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques 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 Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: September 4, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23438 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25147A; 811–03050]

American General Life Insurance Company of New York Separate Account E; Notice of Deregistration

Correction

In Release No. IC–25147, issued on August 31, 2001 (FR Document 01–22508 beginning on page 46850 for Friday, September 7, 2001), the nineteenth entry [1] contained an inadvertent error. The entry incorrectly identified the applicant as A.G. Series Trust and the application amendment date as July 19, 2001. The entry should refer to the applicant by its correct name which is American General Life

[1] *See* 66 FR 46852.

Insurance Company of New York Separate Account E, and the correct application amendment date of July 18, 2001.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23435 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Federal Register Citation of Previous Announcement: [65 FR 47251, September 11, 2001].

Status: Closed meeting.

Place: 450 Fifth Street, NW, Washington, DC.

Date Previously Announced: [September 6, 2001].

Change in the Meeting: Additional items.

The following item was added to the closed meeting scheduled for Friday, September 14, 2001: regulatory matters regarding financial institutions.

Commissioner Unger, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: September 14, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23523 Filed 9–17–01; 4:46 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 17, 2001: A closed meeting will be held on Friday, September 21, 2001, at 10:00 a.m.

Commissioner Hunt, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Friday, September 21, 2001, will be: Institution and settlement of injunctive actions; institution and settlement of administrative proceedings of an enforcement nature; and a formal order.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: September 18, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23707 Filed 9–18–01; 3:50 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934 Rel. No. 44797]

Emergency Order Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 Taking Temporary Action To Respond To Market Developments Concerning the American Stock Exchange LLC

September 16, 2001.

The United States securities markets are the world's strongest and most vibrant. The Commission has full confidence that the attacks of September 11, 2001, will have little lasting impact. To that end, the Commission seeks to serve investors and the markets through all available means to facilitate the reopening of fair and orderly markets.

Some of the nation's securities exchanges may have incurred physical damage or disruption that require relocation of trading facilities and personnel to anther suitable physical location. The American Stock Exchange LLC (''Amex''), in particular, has reported that it is not yet able to occupy its trading floor. Amex anticipates that its electronic order routing systems will function as they did before September 11, 2001. However, due to the severe damage to the infrastructure surrounding its building, Amex will relocate part of its operations to the floor of the New York Stock Exchange (''NYSE''). Because there is limited space available at the NYSE, Amex will operate with limited staffing. As a result, specialists will have to serve as floor brokers while performing their usual functions.

Section 12(k)(2) of the Securities Exchange Act of 1934 (''Exchange Act'') grants the Commission the authority, in the event of certain major market disturbances, to issue summarily an order to alter, supplement, suspend, or impose requirements or restrictions with respect to matters or actions subject to regulation by the Commission. Section 11(a) of the Exchange Act prohibits a member of a national securities exchange from effecting transactions for its own account, the account of an associated person, or an account with respect to which it or an associated person has investment discretion unless an exemption applies. Section 11(b) of the Exchange Act requires a national securities exchange to adopt rules to permit a member to register as a specialist. Section 11(b) of the Exchange Act also prohibits a specialist permitted to act as a broker and dealer to effect on the exchange as a broker any transaction except upon a market or limited price order. Because Amex specialists do not generally act as floor brokers, the Amex rules that govern specialists contain certain restrictions that, unless modified, would impair the ability of Amex specialists to act as floor brokers.

Based on all available information, the Commission has determined that:

(1) Amex's inability to trade on its own floor due to the physical damage to the infrastructure surrounding its premises constitutes a major market disturbance characterized by a substantial threat of sudden and excessive fluctuations of securities prices that threaten the nation's fair and orderly markets.[1]

(2) Ensuring that all national securities exchanges are able to operate provides an important source of liquidity during times of market volatility. Facilitation of the resumption of trading at all of the nation's exchanges is necessary in the public interest and for the protection of investors.

(3) Because space limitations will require Amex personnel to act both as specialists and floor brokers, including

[1] This finding of an ''emergency'' is solely for purposes of Section 12(k)(2) of the Exchange Act and is not intended to have any other effect or meaning or to confer any right or impose any obligation.

handling certain large orders over which they have investment discretion, the specialists may not be able to comply with Amex rules for specialists adopted in conformance with Section 11(b). They also may not be able to comply with the restrictions of Sections 11(a) or 11(b) with respect to these discretionary orders.[2] Accommodating this trading, as a temporary measure, is in the public interest and for the protection of investors in order to maintain or restore fair and orderly securities markets.

Therefore, It Is Ordered, pursuant to Section 12(k)(2) of the Exchange Act, that:

Amex specialists shall be temporarily exempt from Section 11(a) solely for effecting transactions when acting as floor brokers for Amex orders on the floor of the NYSE for accounts in which they have investment discretion provided that,

1. the specialist's discretion, when acting as a floor broker, is limited to time and price discretion of the type exercised by floor brokers on the Amex floor prior to September 11, 2001 pursuant to Amex rules;

2. such discretionary orders to be executed by the Amex specialist acting as a floor broker exceed 50,000 shares; and

3., Amex floor officials take reasonable steps to ensure that the specialist meets its agency obligations and does not disadvantage the customers for which it acts as a floor broker;

It Is Further Ordered, That,

Amex specialists shall be temporarily exempt from Section 11(b) solely for effecting transactions as described above;

It Is Further Ordered, That,

The Amex shall be temporarily exempt from Section 11(b) to permit its specialists to effect transactions as described above.

This order shall be effective with respect to the five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001.[3]

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23462 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 44791]

Emergency Order Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 Taking Temporary Action To Respond to Market Developments

September 14, 2001.

The United States securities markets are the world's strongest and most vibrant. The Commission has full confidence that the attacks of September 11, 2001, will have little lasting market impact. To that end, the Commission seeks to serve investors and the markets through all available means to facilitate the reopening of fair and orderly markets.

Section 12(k)(2) of the Securities Exchange Act of 1934 (''Exchange Act'') grants the Commission the authority, in the event of certain major market disturbances, to issue summarily order to alter, supplement, suspend, or impose requirements or restrictions with respect to matters or actions subject to regulation by the Commission. On September 11, 2001, the U.S. equities and options markets determined not to open in light of the attacks that morning. The U.S. equities and options markets have remained closed since then. Based on all available information, the Commission has determined that:

(1) Uncertainty concerning the impact of the closure of the U.S. equities and options markets constitutes a major market disturbance characterized by ''sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threatens fair and orderly markets.'' [1] In particular, the Commission seeks to ensure that, when the U.S. equities and options markets reopen for trading, they will not be confronted with undue order imbalances.

(2) Purchases by registrants of their own securities can represent an important source of liquidity during times of market volatility. Registrants may be reluctant to engage in such purchases, however, because of certain securities law requirements. In particular, Exchange Act Rule 10b–18 provides registrants with a safe harbor to effect repurchases, but only if the repurchases meet the conditions specified in the Rule. Certain registrants that recently engaged in or initiated business combinations that otherwise qualify for pooling-of-interests treatment under generally accepted accounting principles also may be reluctant to effect repurchases. In this regard, Regulation S–X, Article 4 (Rules of General Application), Part 4–01, provides in pertinent part that, ''Financial statements filed with the Commission which are not prepared in accordance with generally accepted accounting principles will be presumed to be misleading or inaccurate, despite footnote or other disclosures, unless the Commission has otherwise provided.''

(3) The Commission understands that some registrants may have internal policies relating to purchases of the registrant's securities during specific time periods. These policies are designed to prevent violations of the antifraud provisions of the federal securities laws. While the antifraud provisions remain in effect, a registrant's failure to comply with those timing policies for purchases by the registrant of its securities during the period covered by the Order will not by itself be considered as any indication that the registrant may have violated the antifraud provisions. In addition, certain persons may refrain from purchase activity that otherwise serves the public interest because of concern about potential profit recovery under Section 16(b) of the Exchange Act.

(4) Temporary action with respect to the conditions of Rule 10b–18, the application of Article 4 of Regulation S–X,[2] and the operation of certain other provisions of the federal securities laws will provide additional flexibility and certainty to registrants and others that consider engaging in purchases of securities when the U.S. equities and options markets reopen for trading. Accordingly, these temporary measures are in the public interest and for the protection of investors in order to maintain or restore fair and orderly securities markets.

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[2] While our authority to supplement Exchange Act Sections 11(a) and 11(b) in this context is derived from the Exchange Act, we acknowledge that our action will affect the application of other provisions of the securities laws that require compliance with Sections 11(a) and 11(b). Terms used in this Order have the same meanings as those terms used in Sections 11(a) and 11(b).

[3] The Commission has authority under Section 36 of the Exchange Act to exempt, by order, persons form the requirements of Sections 11(a) and 11(b) of the Exchange Act. Due to exigent circumstances, the procedures for such exemptions established by the Commission under Section 36(b) of the Exchange Act have not yet been followed. The Commission expects that, if necessary, within the period of this order, it could issue a Section 36 order, with appropriate findings and conditions, to provide similar exemptions from Sections 11(a) and 11(b) until the Amex obtains its own space.

[1] This finding of an ''emergency'' is solely for purposes of Section 12(k)(2) of the Exchange Act and is not intended to have any other effect or meaning or to confer any right or impose any obligation.

[2] While our authority to supplement Regulation S–X in this context is derived from the Exchange Act, we acknowledge that our action will affect filings under other provisions of the securities laws that require filings to be in compliance with Regulation S–X.

Therefore, It Is Ordered, pursuant to Section 12(k)(2) of the Exchange Act, that,

In connection with a Rule 10b–18 purchase [3] or with a Rule 10b–18 bid that is made during the period covered by this Order by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, an issuer, or an affiliated purchaser of the issuer, shall not be deemed to have violated Section 9(a)(2) of the Exchange Act or Rule 10b–5 under the Exchange Act, solely by reason of the time or price at which its Rule 10b–18 bids or Rule 10b–18 purchases are made or the amount of such bids or purchases or the number of brokers or dealers used in connection with such bids or purchases if the issuer or affiliated purchaser of the issuer meets all of the conditions in Rule 10b–18, with the exception that:

(i) The timing condition in paragraph (b)(2) may be satisfied if the issuer makes Rule 10b–18 purchases without regard to whether any such Rule 10b–18 purchase constitutes the opening transaction in a reported or exchange traded security or whether any such purchase would occur during the one-half hour before the scheduled close of trading on the primary market for such security; and

(ii) The volume condition in paragraph (b)(4) may be satisfied if the issuer makes all Rule 10b–18 purchases other than block purchases of a reported or exchange traded security in an amount that, when added to the amount of all other Rule 10b–18 purchases, other than block purchases, from or through a broker or dealer effected by or for the issuer or an affiliated purchaser of the issuer on that day, does not exceed 100 percent of the trading volume (determined on the basis of the 4 calendar weeks preceding the week beginning on September 10, 2001) for the security; and

It Is Further Ordered, That,

Notwithstanding the pooling-of-interests provisions in Accounting Principles Board Opinion No. 16, Business Combinations, and the related interpretations of the American Institute of Certified Public Accountants, consensuses of the Financial Accounting Standards Board's Emerging Issues Task Force, rules and regulations of the Commission and interpretations by its staff, and other authoritative accounting guidance, acquisitions by registrants of their own equity securities during the period covered by this Order will not affect the availability of pooling-of-interests accounting and, accordingly, a registrant's financial statements will not be misleading or inaccurate solely because the registrant has engaged in such purchases and has accounted for its business combination transactions as a pooling of interests; and

It Is Further Ordered, That,

Notwithstanding the profit recovery provisions of Section 16(b) of the Exchange Act and the rules adopted under it, any purchase during the period covered by this Order by a person subject to Section 16 shall be exempt from the operation of that section with respect to any sale by that person during the preceding six months, and accordingly shall not be matched with such sale. The purchase continues to be reportable on Form 4 under Section 16(a) of the Exchange Act. The Form 4 should use transaction code ''J'' and describe the transaction in a footnote, making specific reference to this Order; and

It Is Further Ordered, That,

Broker-dealers need not treat the 11th, 12th, 13th and 14th of September, 2001 as business or calendar days for purposes of calculating charges or taking actions under Rules 15c3–1 and 15c3–3 arising from failed transactions or imbalances in securities accounting systems, or for the purposes of FOCUS reporting; and

It Is Further Ordered, That,

Broker-dealers that are required to do a reserve computation (including PAIB) for the week ending September 14, 2001 under Rule 15c3–3 will not be required to do such a computation, provided they do not withdraw money from their reserve bank account without first doing a computation.

This Order shall be effective with respect to the five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23463 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

[3] Terms used in this order have the same meanings as those terms used in Exchange Act Rule 10b–18 unless stated otherwise. Issuers repurchasing their shares pursuant to this Order may qualify for the safe harbor notwithstanding the fact that they may have shareholders selling shares pursuant to a shelf registration, so long as any selling shareholder is not an affiliate of the issuer or, if affiliated, the selling activity does not rise to the level of a distribution under Regulation M. 17 CFR 242. 100 *et seq.*

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44803; File No. SR–Amex–2001–78]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC; New York Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Cincinnati Stock Exchange, Inc., Chicago Stock Exchange, Inc.; Pacific Exchange Inc.; Philadelphia Stock Exchange, Inc.; and National Association of Securities Dealers, Inc. Regarding the Temporary Use by the American Stock Exchange LLC of the Facilities of the New York Stock Exchange, Inc.

September 17, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder, notice is hereby given that on September 16, 2001, the American Stock Exchange LLC (''Amex'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule changes as described in Items I.A. and II below. In addition to the Amex, the New York Stock Exchange (''NYSE'') filed with the SEC the proposed rule change described in Item II below; and the Boston Stock Exchange (''BSE''), Cincinnati Stock Exchange, Inc. (''CSE''). Chicago Stock Exchange (''CHX''), NYSE, Pacific Exchange, Inc. (''PCX''), Philadelphia Stock Exchange (''Phlx''), and the National Association of Securities Dealers, Inc. on behalf of Nasdaq (''Nasdaq Intermarket'' or ''ITS/CAES'') (collectively, ''ITS Participants''), filed with the SEC the proposed rule changes as described in Items I.B. and II below.

The proposed rule change concern temporary arrangements made for Amex's continued trading of Amex listed securities and exchange traded funds (''ETFs'') due to the structural damage to its trading floor caused by the recent terrorist attacks. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. As discussed below, the Commission is also granting accelerated approval to the proposal.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

A. Amex

The Amex proposes to amend its rules to trade Amex listed equity securities and ETFs on and through facilities provided by the NYSE. The NYSE proposes to provide such facilities to

Amex, subject to certain acknowledgments of limitation of liability. The text of the proposed rule changes follows. New text is in italics.

Temporary Rule 1—On an emergency basis, the American Stock Exchange temporarily modifies its rules, pursuant to the terms of Securities Exchange Act Release No. 44803 (September 17, 2001) (Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC, et. al. Regarding the Temporary Use of the New York Stock Exchange, Inc. Facilities), and Securities Exchange Act Release No. 44797 (September 16, 2001) (emergency order pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 taking temporary action to respond to market developments concerning the American Stock Exchange LLC).

(a) Pursuant to Rule 232(b) whenever an Exchange specialist, in arranging an opening transaction on the Exchange in any Eligible Listed Security, anticipates that the opening transaction on the Exchange will be at a price that represents a change from the security's previous day's consolidated closing price of more than the ''applicable price change'' set forth in Rule 232, he shall notify the other Participant markets of the situation by sending a ''pre-opening notification'' through the System. Market makers registered in that security in other Participant markets may access the Amex/NYSE facility when responding to a ''pre-opening notification'' in that security by placing an order with a member or member organization for routing through the common message switch to the Amex Order File (''AOF''). Members and member organizations shall not accept a principal order from such a market maker for entry through AOF on the same side of any market imbalance.

(b) An Exchange specialist in any Eligible Listed Security shall use best efforts to (i) avoid ''Exchange trade-throughs'' and ''Locked Markets'' as those terms are defined in Rule 236; and (ii) respond to ''commitments to trade'' during the time period chosen by the sender of the commitment as required by the Intermarket Trading System Plan and Exchange rules. No liability will arise solely as a result of a failure by an Exchange specialist to respond to a commitment to trade.

* * * * *

B. ITS Participants

The BSE, CSE, CHX, NYSE, PCX, Phlx, and Nasdaq Intermarket propose to amend their Intermarket Trading System (''ITS'') rules on a temporary basis, consistent with the terms of this order, to conform to Amex's proposed Temporary Rule 1(b).

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the individual ITS Participants included statements concerning the purpose of, and basis for, the proposed rule changes. Some or all of the ITS Participants have prepared summaries set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Base for, the Proposed Rule Changes

1. Purpose

On September 11, 2001, the United States equities and options markets determined not to open in light of the attacks that morning on the World Trade Center and the Pentagon. The United States equities and options markets have remained closed since that time. On Monday September 17, 2001, the markets plan to reopen for trading.

Some of the nation's securities exchanges may have incurred physical damage or disruption that require relocation of trading facilities and personnel to another suitable physical location. The Amex, in particular, has reported that it will be unable to occupy its trading floor at this time. Amex anticipates that its electronic order routing systems will function as they did prior to September 11, 2001. However, due to the severe damage to the infrastructure surrounding its own building, Amex proposes to relocate part of its operations to the floor of the NYSE. Amex's physical space at the NYSE will be limited; and the number of Amex member firm personnel will also be limited. As a result, specialists will have to perform their usual functions as well as the functions of floor brokers. In addition, the Amex will need to modify or suspend certain of its rules, as described below.

Specifically, the Amex proposes to amend its rules to trade Amex listed stocks and ETFs on the NYSE floor and through facilities of the NYSE (''Amex/NYSE facility'') pursuant to Amex temporary rules. The Amex proposes that, beginning on September 17, 2001, and continuing until such time as the Amex is able to resume trading under its permanent rules, the Amex equity limit order book (known as Point of Sale or ''POS'') would be available for Amex specialists' use on hardware provided by the NYSE. Further, the Amex proposes that all limit orders currently residing on the Amex book would continue to be on the book for those stocks and ETFs traded on the Amex/NYSE facility. Amex proposes that member firms would be able to submit orders and cancellations through the Common Message Switch to the Amex book, and executions would be reported as Amex trades on Tape B. The Amex represents that this emergency use of the Amex/NYSE facility is necessary because of the September 11th terrorist attack on the World Trade Center in New York City and the consequent limitation on the use of the Amex trading floor and facilities.

a. *Limitation of Liability.* By accepting this arrangement with the NYSE to conduct Amex operations on the floor of the NYSE, the Amex, its members, and their employees who are authorized to enter onto the NYSE floor to carry out trading as described herein, shall accept the same limitations on the liability of the NYSE for use of its facilities for the conduct of business that normally apply to any NYSE member, member organizations, or employee thereof in the conduct of his or its business on the NYSE.

b. *Intermarket Trading System.* As mentioned above, the relocation of the Amex has resulted in logistical and technical difficulties. The Amex represents that the Amex/NYSE facility will be operating in much more limited space and fewer specialists and clerks than is usual. For example, rather than the normal 134 screens, all Amex securities will be represented on 71 screens. As each specialist will be responsible for many more securities than normal, they will have limited capacity to respond to individual messages received through the ITS, including commitments and administrative messages such as ''trade or move'' messages and complaints regarding trade-throughs. In addition, for a number of securities with lower trading volume, the specialists will have limited access to National Best Bid and Offer (''NBBO'') information. Also, although during the pre-opening, the Amex/NYSE facility will be able to send pre-opening indications and receive pre-opening responses at a single price, the Amex/NYSE facility will have a limited ability to view or to respond to pre-opening responses at multiple price points.

Therefore, Amex proposes a temporary rule under which each of the ITS Participants could individually elect to participate in the ITS linkage with the Amex/NYSE facility, with the following modifications. For 30 days or as long as the technical and logistical difficulties exist at the Amex/NYSE facility, whichever is sooner, the BSE, CSE, CHX, NYSE, PCX, Phlx, and Nasdaq Intermarket (*i.e.,* ITS/CAES) have each individually agreed to a reciprocal arrangement with Amex that for the temporary period of time specified in this order, notwithstanding

any provision of the ITS Plan: (i) Amex specialists will use their best efforts to respond to ITS messages, including ITS commitments; and (ii) specialists on the BSE, CSE, CHX, NYSE, PCX, and Phlx, and ITS/CAES market makers will in turn use their best efforts to respond to ITS messages, including ITS commitments, from Amex. Under this arrangement, the terms of the ITS Plan will continue to govern commitments that are executed between any of the parties to this arrangement. Further, this arrangement is a bilateral agreement between each of the parties mentioned above and the Amex. Should any exchange choose not to enter into this arrangement, that exchange will be unable to send or receive ITS messages, including ITS commitments, to or from Amex, and will not be subject to the terms of the ITS Plan with respect to Amex; and Amex will not be subject to the terms of the ITS Plan with respect to those exchanges. Finally, the ITS Plan will continue to govern commitments and all other transactions effected through ITS that do not involve Amex.

With regard to pre-opening trading, Amex proposes a temporary rule whereby Amex will take orders through AOF (previously known as PERS) from other exchanges. In the case of a market imbalance, the proposed rule would prohibit all market makers accessing the Amex/NYSE facility from entering proprietary orders in AOF that are on the same side of the market as the imbalance. The proposed rule would apply following the first pre-opening indication.

To the extent that Amex's current technical and logistical problems make compliance with Amex's permanent ITS rules impractical or impossible for trading on the Amex/NYSE facility, the Amex proposes to temporarily suspend any inconsistent portions of those rules that relate to ITS and, in particular, Amex Rules 230, 231, 232, 233, 234, 235, and 236. The Amex, however, has proposed a new temporary rule that would impose an obligation on specialists participating in the Amex/NYSE facility to use best efforts to avoid trade-throughs and locked and crossed markets. Amex has also represented that it will have an official on the floor that is available by telephone to address obvious errors and other ITS situations.

c. *Order Types.* The Amex represents that the Amex/NYSE facility will be unable to accommodate order types that rely on a printer capability at the specialists post. These include: Market on Close (MOC) under Amex Rule 131(e); Limit on Close under Amex Rule 131(e); Immediate or Cancel under Amex Rule 131(k); Fill or Kill under Amex Rule 131(i); ''Opening Only'' Market Orders under Amex Rule 131(f); and market ''all or none'' orders under Amex Rule 131(c). Consequently, Amex proposes a temporary rule, notwithstanding any provision in the Amex's rules to the contrary, that contemplates that Amex will not be able to accommodate these order types.

In addition, the Amex believes that there will be some limitations on odd-lot orders in the Amex/NYSE facility. Specifically, market and marketable limit odd-lot orders are normally executed through the AOF and will continue to be executed on the Amex/NYSE facility. Non-marketable odd-lot limit orders, due to the constraints on network printers, will not be accepted. Consequently, the Exchange proposes to amend Amex Rule 205, and any other rule or portion thereof applicable to non-marketable odd-lot limit orders, on a temporary basis to preclude these order types.

d. *Floor Brokers.* The Exchange notes that Amex floor brokers will not have access to the Amex/NYSE facility. The Amex therefore proposes a temporary rule that would permit NYSE floor brokers to be deputized as Amex members for the purposes of delivering and representing orders in Amex stocks and ETFs to the Amex/NYSE facility. The Exchange proposes that these deputized Amex members would be subject to Amex rules and disciplinary jurisdiction. (The NYSE will obtain an acknowledgement from its floor brokers to this effect.) The Amex proposes to waive specific compliance with, and the deputized NYSE floor brokers would be deemed in compliance with, Amex Article I, Section 3(c), Amex Article IV, Section 1, and other Amex rules relating to exchange membership. Amex states that such deputization is consistent with prior Commission-approved practices respecting the use of another exchange facility to trade options. Deputization of NYSE floor brokers will provide an additional method for the submission and execution of orders.

Specifically, deputized NYSE floor brokers representing orders in securities traded on the Amex/NYSE facility would be subject to all provisions in Amex rules that would apply on an Amex member acting as a floor broker in the same securities, with one exception. Deputized NYSE floor brokers, as such, will be deemed to have satisfied, and the Amex will waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as an Amex member, including all dues, fees, and charges imposed generally upon Amex members based on their status as such. Amex believes that the overall regulatory framework of the NYSE adequately addresses the subject matter of these rules.

e. *Order Size Limitation.* The Exchange represents that, in connection with the operation of the Amex/NYSE facility, the Amex's systems would allow the routing of orders up to 99,900 shares for ETFs, and 30,000 shares for equity securities. Consequently, the Amex proposes to temporarily suspend its current policy prohibiting the breaking up of orders of more than 99,900 or 30,000 shares, as the case may be, to fit within these size parameters.

f. *Specialist Obligations.*The Amex represents that, due to limited physical space at the Amex/NYSE facility, Amex specialists will have to perform not only their usual functions, but also the functions of floor brokers. As a result, the Exchange proposes to suspend the application of several trading rules applicable to specialists. In addition, the Exchange proposes to suspend the Auto-Ex function for ETFs.

The Amex proposes to suspend application of its current rules that prohibit specialists from receiving orders from members and member organizations, including but not limited to Amex Rules 126(g), 154, 190, and 220. However, the portions of any current rules, including but not limited to Amex Rules 154, 190, and 220, that do not pertain to specialists' receipt of orders from members and member organizations, will remain operative. In addition, Amex proposes to suspend application of its current rules that prohibit specialists with off-floor facilities from receiving orders at these off-floor facilities for routing to the trading floor. Further, the Amex proposes a temporary rule that would suspend the provisions of Amex Rule 154, limiting the types of orders that a specialist may accept. Amex proposes a temporary rule that would, notwithstanding any provision to the contrary in Amex's current rules, allow specialists to accept ''not held orders'' and ''price and time'' discretionary orders of 50,000 shares or more.

The Exchange represents that, due to space constraints, trading by registered options traders (''ROTs'') will not be accommodated on the NYSE floor. Consequently, the Exchange proposes a temporary rule to suspend various provisions of Amex Rule 958, which sets forth the obligations of ROTs, as these provisions relate to the trading of ETFs. The Amex proposes that a ROT entering orders in securities in which it is registered from off the floor will continue to be designated as a specialist on the Amex for all purposes under the

Act, so that the ROT may continue to receive favorable margin and other treatment.

g. *Trading Hours.* Finally, the Amex notes that there will be no after-hours trading or trading of non-convertible corporate debt on the Amex/NYSE facility. Therefore, the Exchange proposes a temporary rule would suspend Amex Rules 1300 through 1306, and any other rules or portion thereof relating to after-hours trading and the trading of non-convertible corporate debt.

2. Statutory 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. The NYSE, CSE, CHX, BSE, PCX, Phlx, and Nasdaq Intermarket believe that their proposed rule changes identified in this order are consistent with Section 6(b) of the Act.

B. Self-Regulatory Organizations' Statement on Burden on Competition

The Amex believes that the proposed rule changes will impose no burden on competition. The NYSE, CSE, CHX, BSE, PCX, Phlx, and Nasdaq Intermarket believe that their proposed rule changes identified in this order will not impose any burden on completion

C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The Amex and the other ITS Participants have requested that the Commission find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change so that Amex may restore operations and reopen for trading despite its inability to use its own building and trading floor due to the physical damage to the infrastructure surrounding its premises.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning for 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 changes 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 ITS Participants. All submissions should refer to the File No. SR-Amex-2001–78 and should be submitted by October 11, 2001.

V. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The United States securities markets are the world's strongest and most vibrant. The Commission believes that the terrorist attacks of September 11, 2001, will have little lasting market impact. To that end, the Commission seeks to serve investors and the markets through all available means to facilitate the reopening of fair and orderly markets.

Some of the nation's securities exchanges may have incurred physical damage or disruption that require relocation of trading facilities and personnel to another suitable physical location. The Amex, in particular, has reported that it will be unable to occupy its trading floor at this time. The Amex anticipates that its electronic order routing systems will function as they did prior to September 11, 2001, with the exception of the ETF Auto-Ex system. Due to the severe damage to the infrastructure surrounding its own building, however, Amex will relocate part of its operations to the floor of the NYSE. Amex's physical space and its personnel at this location will be limited.

In light of the technical and logistical limitations of the Amex/NYSE facility, the Commission finds that the Amex's proposal to trade Amex equity securities and ETFs on the Amex/NYSE facility is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act in that the arrangement between the Amex and NYSE 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 transactions in securities. Most important, the proposed temporary rules will allow Amex specialists and member firms to resume trading on September 17, 2001, despite the damage to Amex's permanent trading facilities—thereby potentially serving as an important source of liquidity for investors. The Commission notes that the Amex represents that it will be responsible for, and will conduct surveillance of, trading on the Amex/NYSE facility, including the deputized NYSE floor brokers, as described above. The Commission also expects that the Amex will aggressively work to implement solutions to the issues identified in this order, especially as they relate to ITS, in order to resume trading under Amex's permanent rules as soon as practicable.

While specialists may have to perform the functions of floor brokers in addition to their usual functions under Amex's temporary rules, the Commission notes that their activities will be limited by the terms of Securities Exchange Act Release No. 44797 (September 16, 2001) (emergency order pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 taking temporary action to respond to market developments concerning the American Stock Exchange LLC). Further, Amex Rule 190, entitled ''Specialist's Transactions with Public Customers'' will continue to apply. This Rule prohibits specialists from directly or indirectly effecting any business transactions with a company or any officer, director or 10% stockholder of a company in which stock the specialist is registered. The rule further prohibits specialists from accepting any orders for the purchase or sale of any stock in which the specialist is registered directly from: (1) The company issuing the stock; (2) any officer, director or 10% stockholder of that company; (3) from any pension or profit-sharing fund; or (4) any bank, trust company,

insurance company, investment company or similar institution.

The Commission also finds that Amex's proposed temporary rules regarding ITS access are a reasonable accommodation to address the physical constraints of the Amex/NYSE facility. Amex specialists, as well as specialists on BSE, CSE, CHX, PCX, NYSE, Phlx, and ITS/CAES market makers, will use their best efforts to avoid trade-throughs and locked markets, and to respond to commitments to trade during the time period chosen by the sender of the commitment as currently required by the ITS Plan. The Commission notes that, under Exchange Act Rule 11Aa3–2(d), a ''reasonable justification or excuse'' exists for Amex not to enforce compliance with the ITS Plan by its members and persons associated with its members for this temporary period, consistent with the terms of this order. Likewise, a ''reasonable justification or excuse'' exists under the Rule for the parties to the bilateral agreement (BSE, CSE, CHX, PCX, NYSE, Phlx, and Nasdaq Intermarket) not to enforce compliance with the ITS Plan by their members and persons associated with their members with respect to Amex for this temporary period, consistent with the terms of this order. Should any exchange choose not to enter into this arrangement, that exchange will be unable to send or receive ITS messages, including ITS commitments, to or from the Amex, and will not be subject to the terms of the ITS Plan with respect to the Amex; also, Amex will not be subject to the terms of the ITS Plan with respect to those exchanges. These arrangements may continue for 30 days or when the technical and logistical difficulties no longer exist at the Amex/NYSE facility, whichever is sooner. Finally, the ITS Plan will continue to govern commitments and all other transactions effected through ITS that do not involve Amex.

The Commission finds good cause for granting Amex and the other ITS Participants' request to approve the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** The Commission believes that granting accelerated approval to the proposal is in the public interest and for the protection of investors in order to maintain and restore fair and orderly securities markets, and in time for Amex to resume trading on September 17, 2001.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–Amex–2001–78) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23466 Filed 9–19–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44801; File No. SR–CBOE–2001–49]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Temporary Access of American Stock Exchange Members to Respond to Market Developments

September 17, 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 September 14, 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 and II below, which Items have been prepared by the CBOE. On September 16, 2001, the CBOE submitted an amendment to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In light of the emergency situation arising from the aftermath of the devastating terrorist attack on New York City on September 11, 2001, the CBOE proposes to adopt a temporary rule, which is intended by the Exchange to promote the maintnenace of fair and orderly markets and the protection of investors. The temporary rule would allow the Exchange to permit a person or organization that is a member of the American Stock Exchange LLC (''Amex'') to conduct business on CBOE until emergency conditions cease, provided that the person or organization satisfies certain criteria, including that the person or organization is a member in good standing of the Amex.

The text of the proposed rule change is available at the Office of the Secretary CBOE 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 CBOE included statements concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The CBOE 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 proposes to adopt temporary CBOE Rule 3.22 to allow the Exchange to permit a person or organization to conduct business on the Exchange until the emergency conditions referenced above cease, provided that the person or organization (i) is a member in good standing of the Amex, (ii) is not subject to a statutory disqualification under the Act, and (iii) is not subject to an investigation conducted by any self-regulatory organization (''SRO'') under the Act that may involve the fitness for membership on the exchange of that person or organization.

Pursuant to CBOE Rule 3.29, the authority granted to the Exchange under the proposed rule to permit a person or organization to conduct business on the Exchange for a temporary period during the emergency condition may be exercised by the Exchange's Membership Committee and/or Membership Department. Any person or organization granted such temporary access to conduct business on the Exchange would be referred to under the proposed rule as a TPO.

Under the proposed rule, a TPO would only be permitted to act in those Exchange capacities that are authorized by the Exchange and that are comparable to capacities in which the TPO has been authorized to act on the Amex. As part of the Exchange's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE to Elizabeth King, SEC, dated September 15, 2001 (''Amendment No. 1''). In Amendment No. 1, the CBOE deleted its proposal to permit Amex specialists to act in capacities similar to CBOE designated primary market makers, including acting as floor brokers on the CBOE, and clarified language that was inadvertently omitted from Item B of Exhibit 1 of the filing.

authorization of an Amex member to act in a particular capacity, the Exchange would also have the authority to determine which Exchange systems and facilities the TPO would be authorized to utilize. Additionally, the TPO would only be permitted to trade on CBOE in those securities in which the TPO is authorized to trade on the Amex.

Thus, for example, a TPO would be permitted to act as a Market-Maker in option classes on the Exchange if the TPO has been authorized to act in a comparable membership capacity in those option classes on the Amex, such as a Registered Options Trader, and the Exchange authorizes the TPO to act as a Market-Maker in those option classes. Similarly, a TPO would be permitted to act as a Floor Broker in option classes on the Exchange if the TPO has been authorized to act as a Floor Broker in those option classes on the Amex and the Exchange authorizes the TPO to act as a Floor Broker in these option classes.

Each TPO shall be subject to, and obligated to comply with, the rules of the Exchange that are applicable to Exchange members, but shall have none of the rights of a member of the Exchange, except the right to conduct business on the Exchange to the extent permitted by the proposed rule. Thus, for example, a TPO shall have no right to petition or vote at Exchange membership meetings or elections or to be counted as part of a quorum; shall have no interest in the assets or property of the Exchange; and shall have no right to share in any distributions by the Exchange.

In the event that an individual TPO is associated with an organization, the proposed rule requires the TPO to provide the Exchange, in a form and manner prescribed by the Exchange, an agreement by the organization to be responsible for all obligations arising out of that person's activities on or relating to the Exchange. CBOE Rule 3.8(d) imposes a similar requirement with respect to individual nominees of Exchange member organizations and individuals who have registered their memberships for Exchange member organizations. In addition, CBOE has represented that a TPO will be required to sign a document consenting to the Exchange's jurisdiction over the TPO and that CBOE will assume responsibility for surveillance of a TPO's activities on the Exchange.[4]

The Exchange believes that the proposed rule is similar to CBOE and other SRO rules approved by the Commission in 1989 following mechanical disruptions to the Pacific Exchange, Inc. (''PCX'') options floor caused by an earthquake in San Francisco under which PCX members were authorized to trade on CBOE and other options exchanges.[5]

The Exchange believes that it is appropriate to permit a fully qualified member of another SRO to conduct business on the Exchange on a temporary basis and in equivalent capacities when such action is in the interest of investors and the maintenance of a fair and orderly market and the person or organization is not the subject of a regulatory matter. Specifically, the proposed rule would allow the Exchange to permit Amex members to conduct business on CBOE for a temporary period when the emergency situation that exists in New York City as a result of the devastating terrorist attack on the World Trade Center complex that occurred on September 11, 2001 continues. The Exchange believes that the proposed rule would enhance liquidity in the options market and better enable broker-dealers to handle and process customer orders, which would benefit the securities markets and the investing public.

2. Basis

For these reasons, the Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, because it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to foster cooperation and coordination with persons engaged in regulating and facilitating transactions in securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on 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

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 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 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 CBOE. All submissions should refer to File No. SR–CBOE–2001–49 and should be submitted by October 11, 2001.

IV. Commission's Finding and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission notes that the proposed rule change was submitted in response to the emergency situation that resulted from the September 11, 2001 attacks on the World Trade Center in New York City. On September 11, 2001, the U.S. equities and options markets determined not to open in light of the attacks that morning. The U.S. equities and options markets remained closed throughout the remainder of that week. As a result of the attacks, the Amex facilities were damaged and, at this time, cannot be reopened. The CBOE seeks to accommodate Amex members by temporarily granting them access to the CBOE trading floor and facilities to trade those options that they traded on the Amex as of September 10, 2001 and that are also listed and traded on the CBOE.

The Commission further notes that any Amex member granted temporary access to CBOE as a TPO would only be permitted to trade on CBOE those securities that the TPO is authorized to trade on Amex, and to act in those capacities that are authorized by the Exchange and that are comparable to capacities that the TPO has been authorized to act on the Amex.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the

[4] Telephone conversation between Joanne Moffic-Silver, General Counsel, CBOE, and Elizabeth K. King, Associate Director, and Nancy J. Sanow, Assistant Director, Division of Market Regulation, SEC. on September 15, 2001.

[5] *See* Securities Exchange Act Release No. 27365 (October 19, 1989), 54 FR 43511 (October 25, 1989).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

rules and regulations thereunder applicable to a national securities exchange.[8] Specifically, the Commission believes that the proposal is consistent with the requirements of section 6(b)(5) of the Act,[9] which requires, among other things that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In this regard, the Commission notes that the Amex members serving as TPOs on CBOE will be subject to the jurisdiction of the Exchange and thus the Exchange will be responsible for the surveillance of TPOs to ensure that they are in compliance with applicable rules of the Exchange, as well as those rules and regulations under the Act, while conducting business on the Exchange. In addition, CBOE will be responsible for ensuring, among other things, that TPOs' quotes and trades are collected and reported to the Options Price Reporting Authority and that TPOs are disciplined for any CBOE rule violations while they are subject to the Exchange's jurisdiction.

The Commission believes that the CBOE's proposal should enable continuous and liquid markets to be maintained for those options traded on both the Amex and CBOE until the Amex can reopen for trading. By permitting Amex members to trade the products that they normally trade on the Amex should help to ensure that the level of liquidity for these options that existed as of September 10, 2001 would be available when trading resumes in the U.S. markets. This is especially important in light of the upcoming options expiration on September 21, 2001. For these reasons, the Commission believes that the proposal is in the public interest and should provide additional protections to investors when the markets reopen.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing in the **Federal Register**. The Commission believes that it is necessary to approve the proposed rule change immediately to provide a trading venue for Amex members when the U.S. markets resume trading.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change, as amended (SR–CBOE–2001–49) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23465 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

[8] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44793; File No. SR–NSCC–2001–15]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to a Temporary Processing Modification for Buy-In Executions

September 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 14, 2001, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to make a temporary processing modification for buy-in executions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to make a temporary processing modification for buy-in executions. Under NSCC's buy-in process, NSCC includes information regarding buy-in liability on its CNS Projection Report. Due to the recent tragic events, many NSCC members are operating out of alternate operational sites. Many of these members, for various reasons associated with recent events, have had connectivity difficulties with NSCC. NSCC therefore is concerned that notice of buy-in liability may not have been received by affected members. NSCC therefore intends to not permit buy-in executions when market trading resumes for both the day trading resumes and the day thereafter. Any notice of intention to buy-in affected by this filing will be required to be resubmitted to NSCC.

The proposed rule change will facilitate the orderly, prompt, and accurate clearance and settlement of securities transactions. Thus, the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) 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.[3] Due to recent communications and

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] 15 U.S.C. 78q–1(b)(3)(F).

connectivity disruptions with NSCC, affected members may not have received notice of buy-in liability. Therefore, by not allowing buy-in executions when market trading resumes and on the day thereafter, and by requiring any notice of intention to buy-in affected by this filing to be resubmitted to NSCC, NSCC's proposed rule change should facilitate an orderly return to an environment where the prompt and accurate clearance and settlement of securities transactions is effected. Therefore, the Commission finds that the rule change is consistent with NSCC's obligation under section 17A(b)(3)(F).

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for approving prior to the thirtieth day after publication of the notice of filing because accelerated approval will permit NSCC to immediately make a temporary processing modification for buy-in executions on the date when trading resumes. The Commission is approving this proposed rule change prior to the expiration of the public comment period in order to allow NSCC to immediately make a temporary processing modification for buy-in executions on the date when trading resumes.

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 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–2001–15 and should be submitted by October 11, 2001.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–2001–15) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23464 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 44789; File No. SR–NYSE–2001–11]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Amending New York Stock Exchange Rule 342 (''Offices—Approval, Supervision and Control'')

September 13, 2001.

On May 15, 2001, the New York Stock Exchange, Inc. 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 amending New York Stock Exchange Rule 342 to rescind the prerequisite that Compliance Official candidates from members or member organizations doing a public business be required to take the General Securities Sales Supervisor Qualification Examination (Series 9/10).

The proposed rule change was published for comment in the **Federal Register** on August 1, 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 Sections 6(b)(5) and 6(c)(3)(B) of the Act.[6] Section 6(b)(5)[7] requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Under Section 6(c)(3)(B) of the Act,[8] it the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations.

The Commission believes that the proposed rule change promotes the objectives of these sections of the Act by removing duplicative examination requirements. Specifically, the proposed rule change rescinds the prerequisite that Compliance Official candidates from members or member organizations doing a public business take the General Securities Sales Supervisor Qualification Examination (Series 9/10), because that exam contains substantially similar material to the required Compliance Official Qualification Examination (Series 14).

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–NYSE–2001–11) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23437 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44790; File No. SR–PCX–2001–26]

Self-Regulatory Organizations; the Pacific Exchange, Inc.; Order Granting Approval of Proposed Rule Change Relating to Accepting Orders From Professional Customers

September 13, 2001.

On July 26, 2001, the Pacific Exchange, Inc. (''PCX'' 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 that would allow PCX Floor Brokers and qualified Floor Clerks of

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44588 (August 1, 2001), 66 FR 39808.

[4] In approving this proposed rule change, the Commission notes that it has considered the 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) and 15 U.S.C. 78f(c)(3)(B).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(c)(3)(B).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Floor Brokers to accept orders from Professional Customers (as defined in the proposed rule) for execution on the Exchange's trading floor, under certain terms and circumstances. Notice of the proposed rule change was published for comment in the **Federal Register** on August 8, 2001.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission has reviewed carefully the proposed rule change, and finds that it is consistent with the act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[4] Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 6(b)(5)[5] in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest.

Additionally, the Commission believes the proposal's provision that would allow a Floor Clerk of a qualified Floor Member to accept orders from professional customers for execution on the Exchange's trading floor provided the Floor Clerk has successfully completed either the Series 7 Examination or the Series 7A Examination is consistent with Section 6(c)(3)(A) of the Act,[6] which allows a national securities exchange to deny membership to, or condition the membership of, a registered broker or dealer if such broker or dealer, or persons associated with such broker or dealer, does not meet such standards of training, experience, and competence as are prescribed by the rules of the exchange. The Commission believes the proposed rule change will help the Exchange to ensure that Floor Clerks satisfy prescribed standards of training, experience, and competence, and will help to ensure that Floor Clerks who may accept orders from Professional Customers for execution on the Exchange's trading floor are sufficiently familiar with the rules and practices of the Exchange's trading floor.

For these reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, in general, and with Sections 6(b)(5)[7] and 6(c)(3)(A)[8] in particular.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–PCX–2001–26) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23436 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

[3] Securities Exchange Act Release No. 44637 (August 1, 2001), 66 FR 41645.

[4] 15 U.S.C. 78f(b). In approving this proposal, 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(b)(5).

[6] 15 U.S.C. 78f(c)(3)(A).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(c)(3)(A).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3785]

Exchange Visitor Program Designation Staff, Bureau of Educational and Cultural Affairs; 60-Day Notice of Proposed Information Collection: Form DS–2019, Certificate of Eligibility for Exchange Visitor (J–1) Status (Formerly USIA Collection 3116–2015, Forms IAP–66 and IAP–66P) OMB #1405–0119

ACTION: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice. The following summarizes the information collection proposal submitted to OMB:

Type of Request: Comment.

Originating Office: Exchange Visitor Program Designation Staff, Bureau of Educational and Cultural Affairs (ECA/EC/ECD).

Title of Information Collection: Certificate of Eligibility for Exchange Visitor (J–1) Status.

Frequency: Annually.

Form Number: DS–2019 (Formerly U.S. Information Agency's Form IAP–66).

Respondents: Department of State designated program sponsors.

Estimated Number of Respondents: 1,500.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 375 hours.

Public comments are being solicited to permit the Department to:

—Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility.

—Evaluate the accuracy of the Department's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

—Enhance the quality, utility, and clarity of the information to be collected.

—Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

For Additional Information: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Vicki Rose, Exchange Visitor Program Designation Staff (ECA/EC/ECD), Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, U.S. Department of State, 301 Fourth Street, SW., Room 734, Washington, DC 20547; telephone: 202–401–9810.

Dated: August 14, 2001.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 01–23485 Filed 9–19–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number PS–ACE100–2001–004]

Proposed Small Airplane Directorate Policy on Guidance for Reviewing Certification Plans To Address Human Factors for Certification of Part 23 Small Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces a Federal Aviation Administration (FAA) proposed policy on reviewing certification plans to address human factors for certification. This notice advises the public, especially manufacturers of normal, utility, and acrobatic category airplanes, and commuter category airplanes used in non-scheduled service and their suppliers, that the FAA intends to adopt a policy concerning reviewing certification plans to address human

factors for certification. This notice is necessary to advise the public of this FAA policy and give all interested persons an opportunity to present their views on it.

DATES: Send your comments by October 22, 2001.

Discussion: On August 29, 2001, the Small Airplane Directorate issued a proposed policy statement. We are making this proposed policy statement available to the public and all manufacturers for their comments.

ADDRESSES: Copies of the proposed policy statement, PS-ACE100–2001–004, may be requested from the following: Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Service, Federal Aviation Administration, 901 Locust Street, Room 301, Kansas City, MO 64106. The proposed policy statement is also available on the Internet at the following address: *http://www.faa.gov/programs_rsvp2/smart/faa_home_page/certification/aircraft/ small_airplane_directorate_news_proposed.html.* Send all comments on this proposed policy statement to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Frank Bick, Federal Aviation Administration, Small Airplane Directorate, Regulations & Policy, ACE–111, 901 Locust Street, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: 816–329–4090; e-mail: *frank.bick@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite your comments on this proposed policy statement. Send any data or views as you may desire. Identify the proposed Policy Statement Number PS-ACE100–2001–004 on your comments, and if you submit your comments in writing, send two copies of your comments to the above address. The Small Airplane Directorate will consider all communications received on or before the closing date for comments. We may change the proposal contained in this notice because of the comments received.

You may also send comments to the following Internet address: *9-ACE-Part23HF-Policy@faa.gov.* Comments sent by fax or the Internet must contain ''Comments to proposed policy statement PS-ACE100–2001–004'' in the subject line. You do not need to send two copies if you fax your comments or send them through the Internet. If you send comments over the Internet as an attached electronic file, format it in either Microsoft Word 97 for Windows or ASCII text.

State what specific change you are seeking to the proposed policy memorandum and include justification (for example, reasons or data) for each request.

Issued in Kansas City, Missouri on September 6, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23564 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice to Rescind Notice of Intent To Prepare an Environmental Impact Statement: St. Francois County, MO

AGENCY: Federal Highway Administration (FHWA), DOT, and the Missouri Department of Transportation.

ACTION: Rescind Notice of Intent to prepare an environmental impact statement.

SUMMARY: The FHWA is issuing this notice to advise the public that we are rescinding the Notice Of Intent (NOI) to prepare an environmental impact statement (EIS) for improvements that were proposed to the transportation system in St. Francois County, Missouri.

FOR FURTHER INFORMATION CONTACT: Donald L. Neumann, Programs Engineer, FHWA, Division Office, 209 Adams Street, Jefferson City, MO 65101; Telephone: (573) 634–2393 or Scott Meyer, District Engineer, Missouri Department of Transportation, PO Box 160, Sikeston, Missouri, 63801; Telephone: (573) 472–5333.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Department of Transportation (MoDOT), is rescinding the NOI to prepare an EIS for a project that had been proposed to improve the transportation system in St. Francois County, Missouri. The NOI is being rescinded because MoDOT lacks funding to build this project. They do not want to concentrate their efforts on completing an EIS for a project which may not be built for 20 years, at which time the EIS would need to be reevaluated.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: September 12, 2001.

Donald L. Neumann,

Programs Engineer, Jefferson City.

[FR Doc. 01–23563 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–99–5578 (formerly FHWA–99–5578)]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice announces the FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for 18 individuals.

DATES: This decision is effective September 20, 2001. Comments from interested persons should be submitted by October 22, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all comments online through the Document Management

System (DMS) at: *http://dmses.dot.gov/submit*.

Background

Eighteen individuals have requested renewal of their exemptions from the vision requirement in 49 CFR 391.41(b)(10) which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Grady L. Black, Jr., John A. Chizmar, Billy M. Coker, Weldon R. Evans, Richard L. Gagnebin, James P. Guth, Rayford R. Harper, Paul M. Hoerner, Charles L. Lovern, Craig M. Mahaffey, Michael S. Maki, Howard R. Payne, Kenneth A. Reddick, Leonard Rice, Jr., John A. Sortman, James A. Strickland, James T. Sullivan, and Edward A. Vanderhei. Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, the FMCSA has evaluated the 18 petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

On September 23, 1999, the agency published a notice of final disposition announcing its decision to exempt 32 individuals, including these 18 applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 51568). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 27027 (May 18, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 51568). The agency determined that exempting the individuals from 49 CFR 391.41(b)(10) was likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as the vision in each applicant's better eye continued to meet the standard specified in 391.41(b)(10). As a condition of the exemption, therefore, the agency imposed requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are as follows: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for an additional 2-year period. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 18 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 30285; 63 FR 54519; 63 FR 66226; 64 FR 16517), and each has requested timely renewal of the exemption. These 18 applicants have submitted evidence showing that the vision in their better eye continues to meet the standard specified at 49 CFR 391.41(b)(10), and that the vision impairment is stable. In addition, a review of their records of safety while driving with their respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Discussion of Comments

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, the AHAS objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by the AHAS were addressed at length in 66 FR 17994 (April 4, 2001). We will not address these points again here, but refer interested parties to that earlier discussion.

Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Grady L. Black, Jr., John A. Chizmar, Billy M. Coker, Weldon R. Evans, Richard L. Gagnebin, James P. Guth, Rayford R. Harper, Paul M. Hoerner, Charles L. Lovern, Craig M. Mahaffey, Michael S. Maki, Howard R. Payne, Kenneth A. Reddick, Leonard Rice, Jr., John A. Sortman, James A. Strickland, James T. Sullivan, and Edward A. Vanderhei, subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Request for Comments

The FMCSA has evaluated the qualifications and driving performance of the 18 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). While comments of this nature will be entertained at any time, the FMCSA requests that interested parties with information concerning the safety records of these drivers submit comments by October 22, 2001. All comments will be considered and will be available for examination in the docket room at the above address. The

FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 322, 31136 and 31315; and 49 CFR 1.73.

Issued on: September 14, 2001.

Julie Anna Cirillo,

Acting Deputy Administrator.

[FR Doc. 01–23428 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on July 10, 2001 (66 FR 36031).

DATES: Comments must be submitted on or before October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On July 10, 2001, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 66 FR 36031. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Railroad Communications (Formerly Transmission of Train Orders by Radio).

OMB Control Number: 2130–0524.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Form(s): N/A.

Abstract: The Federal Railroad Administration (FRA) amended its radio standards and procedures to promote compliance by making regulations more flexible; to require wireless communications devices, including radios, for specified classifications of railroad operations and roadway workers; and to re-title this part to reflect its coverage of other means of wireless communications such as cellular telephones, data radio terminals, and other forms of wireless communications to convey emergency and need-to-know information. The new rule establishes safe, uniform procedures covering the use of radio and other wireless communications within the railroad industry.

Affected Public: Businesses.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503; Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on September 14, 2001.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 01–23427 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10635]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Argonaut.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 22, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10635. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) *Name of vessel and owner for which waiver is requested.* Name of vessel: *Argonaut.* Owner: John G. Edwards.

(2) *Size, capacity and tonnage of vessel.* According to the applicant: ''Gross Tonnage: 23; Net Tonnage: 21; Length: 40.6 Feet; Breadth: 12.1 Feet; Depth: 9.5 Feet''.

(3) *Intended use for vessel, including geographic region of intended operation and trade.* According to the applicant: ''Vessel will primarily offer day and night skippered pleasure sails in the Long Beach and Los Angeles area. The vessel will also be used for special event charters for small parties and other social gatherings. The vessel will be used for skippered charters to Catalina, San Diego, Mexico, Channel Islands, and other California coastal areas. Some commercial operations may require the use of one or two crew members. If chartered for that purpose, the vessel might also be used for whale watching and other excursions of varying lengths, from a few hours to several days.''

(4) *Date and Place of construction and (if applicable) rebuilding.* Date of construction: 1978. Place of construction: Pali Shiang Taipei Hsien, Taiwan, Republic of China.

(5) *A statement on the impact this waiver will have on other commercial passenger vessel operators.* According to the applicant: ''The commercial usage of the vessel Argonaut should have no adverse effect on other boating operations in the area. The commercial passenger operations in the area consist primarily of large scale harbor tours, pleasure diving and pleasure fishing operations. I am not interested in providing any of those services but wish to fulfill a potential need for a specialized market involving sailing charters to small groups of people. Most other commercial sailing operations are for instructed sailing lessons on small sailing craft. There are some bare-boat charter businesses in the immediate area but the impact should be negligible. The granting of the waiver will have no effect at all upon sailing operations in the area in that they are large scale operations using inspected vessels. I might also offer blue water sailing instruction on a large cruising yacht, which to the best of my knowledge, is not currently offered locally.''

(6) *A statement on the impact this waiver will have on U.S. shipyards.* According to the applicant: ''The granting of a waiver for *Argonaut* should have a positive impact on the boat and shipyard industries in the area. The business will necessitate the use of yard services from time to time and will require the employment of workers who have the necessary skills to repair and maintain the boat. There should be no negative impact on the shipyards whatsoever.''

Dated: September 13, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–23506 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10634]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Stevie Sunshine.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 22, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10634. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build

requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement:

(1) *Name of vessel and owner for which waiver is requested.* Name of vessel: *Stevie Sunshine.* Owner: Costanza Contracting of Delaware, Inc.

(2) *Size, capacity and tonnage of vessel.* According to the applicant: ''Length Overall: 60′1″; Displacement: Tonnage—Gross: 49 Tons; Net: 33 Tons''

(3) *Intended use for vessel, including geographic region of intended operation and trade.* According to the applicant: ''The M/V *Stevie Sunshine* is intended for hourly, daily, and overnight private charter, as well as, extended charter use in both private party charter and the sportfishing tournament circuit to include all U.S. coastline waters up to and including 100 miles offshore and all inland waters. This vessel will be in full compliance with all Federal Regulations (to include the required number of trained and licensed captains and mates).''

(4) *Date and Place of construction and (if applicable) rebuilding.* Date of construction: 1987. Place of construction: Monnickendam, Netherlands.

(5) *A statement on the impact this waiver will have on other commercial passenger vessel operators.* According to the applicant: ''It is our opinion that this waiver will have no appreciable impact on any charter operator, regardless of their base of operation, because we do not plan to be in any existing market long enough to affect that market. Our intention is to cater to the sportfishing tournament circuit, with hourly, daily and/or overnight charters. Our Charter operation would serve to compliment the local charter operator, as well as, the local shipyards due to our purchase of bait, tackle, and supplies in general, thus, stimulating the local economy for the period of time that we were in a port of call.''

(6) *A statement on the impact this waiver will have on U.S. shipyards.* According to the applicant: ''This waiver will have no negative, but in fact, a positive economic impact on U.S. shipyards. Costanza Contracting of DE, Inc., has already spent approximately, $250,000.00 since purchase this year (2/19/01), on improving this vessel. All of this work has been undertaken at U.S. shipyards and marinas. The owner intends to continue to improve this vessel and anticipates that all future improvements, repairs, and upgrades will continue to be undertaken in U.S. shipyards and marinas.''

Dated: September 13, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–23507 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on May 1, 2001 (66 FR 21814–21815).

DATES: Comments must be submitted on or before October 22, 2001.

FOR FURTHER INFORMATION CONTACT: William Fan at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS–11), 202–366–4922. 400 Seventh Street, SW., Room 5320, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Part 589-Upper Interior Component Head Impact Protection Phase-in Reporting Requirements.

OMB Number: 2127–0581.

Type of Request: Extension of a currently approved collection.

Abstract: Manufacturers of passenger cars, trucks, and multipurpose passenger vehicles with a gross vehicle weight rating of 4,536 kilograms or less and buses with a gross vehicle weight rating of 3,860 kilograms or less required to respond to NHTSA inquiries, to submit a report, concerning the number of such vehicles that meet the upper interior component head impact protection requirements of Standard No. 201, Occupant Protection in Interior Impact (49 CFR 571.201).

Affected Public: Businesses and for-profit institutions.

Estimated Total Annual Burden: 1,260.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, D.C., on September 14, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–23429 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49

CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before October 22, 2001.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation; Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590; or at http://dms.dot.gov.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 14, 2001.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12815–N	RSPA–01–10553	FMC Corporation, Opelousas, LA.	49 CFR 173.240	To authorize the transportation in commerce of waste toxic solids, n.o.s., Division 6.1 in bulk non-specification packaging (sift-proof closed vehicles or closed bulk bins.) (mode 1).
12816–N	RSPA–01–10544	Department of Defense (DOD) Alexandria, VA.	49 CFR 173.433	To authorize the transportation in commerce of radioactive material, Class 7 in specially designed packaging. (modes 1, 2).
12819–N	RSPA–01–10549	BBI–Biotech Research Laboratories, Inc., Gaithersburg, MD.	49 CFR 173.196, 178.609.	To authorize the transportation in commerce of certain infectious substances in specially designed packaging. (mode 1).
12820–N	RSPA–01–10550	Trinity Manufacturing Hamlet, NC.	49 CFR 173.227(c)	To authorize the transportation in commerce of chloropicrin, 6.1, poison inhalation hazard, Hazard Zone B and chloropicrin mixtures in 1A1 drums in an alternative stacking position. (mode 1).
12821–N	RSPA–1–	Environmental Packaging Technologies, Inc. Atkinson, NH.	49 CFR 173.12(b)(2)(I), 173.240–243.	To authorize the manufacture, marking, sale and use of certain UN 11G Intermediate Bulk Containers (cubic yard boxes) for use as the outer packaging for paint and paint related material in HMR. (mode 1).
12823–N	RSPA–01–10537	Eastman Kodak Company, Rochester, NY.	49 CFR 174.67(i) & (j)	To authorize rail cars containing Class 3 and Class 9 hazardous materials to remain standing while connected without the physical presence of an unloader. (mode 2).
12825–N	RSPA–01–10535	United States Marine Safety Association, Colorado Springs, CO.	49 CFR 173.301(i)	To authorize the transportation of foreign life rafts equipped with non-DOT specification cylinders, (mode 1).
12826–N	RSPA–01–10547	Environmental Packaging Technologies, Inc., Atkinson, NH.	49 CFR 173.12(b)(2)(i) ...	To authorize the manufacture, marking, sale and use of certain UN 11G intermediate bulk containers (cubic yard boxes) for use as the outer packaging for paint and paint related material. (mode 1).
12827–N	RSPA–01–10586	Department of Energy (DOE), Washington, DC.	49 CFR 172.101, 173.56	To authorize the transportation in commerce of limited quantities of forbidden explosives by exclusive use motor vehicle in specially designed bomb proof trailers. (mode 1).

[FR Doc. 01–23431 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of

application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before (15 days after publication).

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington, DC; or at http://dms.dot.gov.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 14, 2001.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of Exemption
7007–M		Allied Universal Corp., Miami, FL (See Footnote 1)	7007
9884–M		Puritan Bennett Corp. (Div. of Tyco Healthcare), Indianapolis, IN (See Footnote 2).	9884
10688–M		Alaska Air Taxi, Anchorage, AK (See Footnote 3)	10688
11761–M		The Mead Corporation, Dayton, OH (See Footnote 4)	11761
11761–M		Brenntag West, Inc., Santa Fe Springs, CA (See Footnote 5)	11761
11791–M		The Coleman Company, Inc., Wichita, KS (See Footnote 6)	11791
11850–M	RSPA–97–2308	Air Transport Association, Washington, DC (See Footnote 7)	11850
12532–M	RSPA–00–7864	Carleton Technologies, Inc., Orchard Park, NY (See Footnote 8)	12532
12590–M	RSPA–01–9890	USAirways, Inc., Pittsburgh, PA (See Footnote 9)	12590
12599–M	RSPA–01–8918	Voltaix, Inc., North Branch, NJ (See Footnote 10)	12599
12652–M	RSPA–01–9061	Eagle-Picher Technologies, LLC, Joplin, MO (See Footnote 11)	12652
12705–M	RSPA–01–9726	Brenntag Mid-South, Inc., Henderson, KY (See Footnote 12)	12705
12808–M		Linco-Electromatic Measurement, Inc., Kilgore, TX (See Footnote 13)	12808

[1] To modify the exemption to authorize the use of additional non-DOT specification multi-unit tank car tanks with minimum shell thickness for the transportation of Division 2.3 materials.

[2] To modify the exemption to authorize the use of a brazing procedure for bonding of the non-DOT specification cylinder tubes with the heads for the transportation of certain Division 2.2 materials.

[3] To modify the exemption to authorize alternative packaging for the non-DOT specification polyethylene containers with an increased container size to 6 gallons for the transportation of a Class 3 material; the addition of cargo aircraft only as an additional mode of transportation.

[4] To modify the exemption to authorize the transportation of additional Class 8 materials in certain DOT and AAR Specification tank cars with a modified inspection procedure.

[5] To modify the exemption to authorize relief from the inspection requirements of the underside rupture disk of the DOT and AAR Specification tank car tanks and the transportation of all Class 8 materials.

[6] To modify the exemption to authorize the use of a smaller size DOT 2Q nonrefillable inner container for the transportation of certain Division 2.1 materials.

[7] To modify the exemption to authorize the use of certain DOT and non-DOT specification cylinders fabricated from 4130 steel and titanium for the transportation of Division 2.2 materials.

[8] To modify the exemption to authorize one refill cycle of the non-DOT specification non-refillable welded stainless steel cylinder for the transportation of certain Division 2.2 materials.

[9] To modify the exemption originally issued on an emergency basis for the transportation of certain Class 8 materials in non-DOT specification specially designed containers and the transportation of an additional Class 8 material.

[10] To modify the exemption to authorize germane mixtures, Division 2.1 and 2.3, to be transported in DOT Specification 3AA and 3AAX manifold cylinders.

[11] To reissue the exemption originally issued on an emergency basis for the transportation of a Division 2.1 material in a non-DOT specification pressure vessel.

[12] To modify the exemption originally issued on an emergency basis for the transportation of a Class 8 material in drums that do not meet the minimum thickness requirements.

[13] To reissue the exemption originally issued on an emergency basis for the transportation of Class 3 materials in a non-DOT specification container described as a truck mounted mechanical displacement meter prover.

[FR Doc. 01–23430 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 7, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before October 22, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0051.

Form Number: IRS Form 99–C.

Type of Review: Revision.

Title: Farmers' Cooperative Association.

Description: Form 990–C is used by farmers' cooperatives to report the tax imposed by Internal Revenue Code section 1381. The IRS uses the

information on the form to determine whether the cooperative has correctly computed and reported its income tax liability.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 5,600.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	75 hr., 34 min.
Learning about the law or the form.	24 hr., 55 min.
Preparing the form	43 hr., 5 min.
Copying, assembling, and sending the form to the IRS.	4 hr., 33 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 829,640 hours.

OMB Number: 1545–1274.

Form Number: IRS Form 8453–NR.

Type of Review: Extension.

Title: U.S. Nonresident Alien Income Tax Declaration for Electronic Filing.

Description: This form is used to secure taxpayer signatures and declarations in conjunction with the Electronic Filing program. This form, together with the electronic transmission comprises the taxpayer's income tax return.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 15 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 1,250 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 01–23501 Filed 9–19–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 14, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before October 22, 2001 to be assured of consideration.

Departmental Offices/Executive Office for Asset Forfeiture

OMB Number: 1505–0152.

Form Number: TD F 92–22.46.

Type of Review: Extension.

Title: Request for Transfer of Property Seized/Forfeited by a Treasury Agency.

Description: Form TD F 92–22.46 is necessary for the application for receipt of seized assets by Federal, State and Local Law Enforcement agencies.

Respondents: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 30 minutes.

Frequency of Response: Other (one submission per requested asset sharing).

Estimated Total Reporting/Recordkeeping Burden: 2,500 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–23508 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 14, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before October 22, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0021.

Form Number: IRS Form 709–A.

Type of Review: Extension.

Title: United States Short Form Gift Tax Return.

Description: Form 709 is used to report gifts that would be taxable except that they are ''split'' between husband and wife. The form is a simplified version of Form 709, designed to relieve these gift/taxpayers of the burden of filing Form 709. IRS uses the information to assure that ''gift-splitting'' was properly elected.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 45,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	13 min.
Learning about the law or the form.	11 min.
Preparing the form	14 min.
Copying, assembling, and sending the form to the IRS.	20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 44,100 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–23509 Filed 9–19–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974: Computer Matching Program

AGENCY: Treasury Inspector General for Tax Administration, Treasury.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 552a, the Privacy Act of 1974, as amended, notice is hereby given of the agreement between the Treasury Inspector General for Tax Administration (TIGTA) and the Internal Revenue Service (IRS) which enables TIGTA to conduct a program of computer matches.

EFFECTIVE DATE: October 22, 2001.

ADDRESSES: Comments or inquires may be mailed to the Treasury Inspector General for Tax Administration, 1125 15th Street, NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Disclosure Officer, Treasury Inspector General for Tax Administration, (202) 622–4068.

SUPPLEMENTARY INFORMATION: TIGTA's computer matching program will enable TIGTA to prevent and detect fraud and abuse in the programs and operations of the IRS and related entities. TIGTA's computer matching program is designed to proactively detect indicators of misconduct and to discourage/deter the perpetration of illegal acts and misconduct by IRS employees. Further, this program will utilize computer matches to create models to identify alleged misconduct and criminal violations. Computer matching is the most feasible method of performing comprehensive analysis of employee and tax data.

Name of Source Agency:

Internal Revenue Service.

Name of Recipient Agency:

Treasury Inspector General for Tax Administration.

Beginning and Completion Dates:

This program of computer matches is expected to commence on September 24, 2001, but not earlier than the fortieth day after copies of the Computer Matching Agreement are provided to the Congress and OMB unless comments dictate otherwise. The program of computer matches is expected to conclude on March 23, 2003 or at the end of the eighteenth month after the beginning date.

Purpose:

This program is designed to deter and detect fraud, waste, and abuse in Internal Revenue Service programs and operations as well as to identify employees who have violated or are violating laws, rules, or regulations.

Authority:

The Inspector General Act of 1978, 5 U.S.C. Appendix 3, Treasury Order 115–01.

Categories of Individuals Covered:

Current and former employees of the Internal Revenue Service as well as individuals and entities about whom information is maintained in the systems of records listed below.

Categories of Records Covered:

Included in this program of computer matches are records from the following forty-two (42) Treasury or Internal Revenue Service systems:

a. Treasury Integrated Management Information System (TIMIS) [Treasury/DO.002]
b. FinCEN Data Base [Treasury/DO.200]
c. Treasury Integrated Financial Management and Revenue System [Treasury/DO.210]
d. Suspicious Activity Reporting System [Treasury/DO.212]
e. Bank Secrecy Act Reports System [Treasury/DO.213]
f. Correspondence Files and Correspondence Control Files [Treasury/IRS 00.001]
g. Correspondence Files/Inquiries About Enforcement Activities [Treasury/IRS 00.002]
h. Customer Feedback System [Treasury/IRS 00.003]
i. Foreign Information System (FIS) [Treasury/IRS 22.027]
j. Individual Returns Files, Adjustments and Miscellaneous Documents Files [Treasury/IRS 22.034]
k. Unidentified Remittance File [Treasury/IRS 22.059]
l. Automated Non-Master File (ANMF) [Treasury/IRS 22.060]
m. Individual Return Master File (IRMF) [Treasury/IRS 22.061]
n. Combined Account Number File [Treasury/IRS 24.013]
o. Individual Account Number File [Treasury/IRS 24.029]
p. Individual Master File (IMF) [Treasury/IRS 24.030]
q. Business Master File (BMF) [Treasury/IRS 24.046]
r. Audit Underreporter Case File [Treasury/IRS 24.047]
s. Debtor Master File [Treasury/IRS 24.070]
t. Acquired Property Records [Treasury/IRS 26.001]
u. IRS and Treasury Employee Delinquency [Treasury/IRS 26.008]
v. Lien Files (Open and Closed) [Treasury/IRS 26.009]
w. Offer in Compromise (OIC) File [Treasury/IRS 26.012]
x. Record 21, Record of Seizure and Sale of Real Property [Treasury/IRS 26.014]
y. Returns Compliance Programs [Treasury/IRS 26.016]
z. Taxpayer Delinquent Account (TDA) Files [Treasury/IRS 26.019]
aa. Taxpayer Delinquency Investigation (TDI) Files [Treasury/IRS 26.020]
bb. Counsel Automated Tracking System (CATS) Records [Treasury/IRS 90.016]
cc. Audit Trail Lead Analysis System (ATLAS) [Treasury/IRS 34.020]
dd. General Personnel and Payroll Records [Treasury/IRS 36.003]
ee. Medical Records [Treasury/IRS 36.005]
ff. Enrolled Agents and Resigned Enrolled Agents [Treasury/IRS 37.009]
gg. Examination Administrative File [Treasury/IRS 42.001]
hh. Audit Information Management System (AIMS) [Treasury/IRS 42.008]
ii. Internal Revenue Service Employees' Returns Control Files [Treasury/IRS 42.014]
jj. Classification/Centralized and Scheduling Files [Treasury/IRS 42.016]
kk. Compliance Programs and Projects Files [Treasury/IRS 42.021]
ll. Unified System for Time and Appeals Records UNISTAR [Treasury/IRS 44.003]
mm. Case Management and Time Reporting System [Treasury/IRS 46.002]
nn. Controlled Accounts (Open and Closed) [Treasury/IRS 46.004]
oo. Treasury Enforcement Communications System (TECS) Criminal Investigation Division [Treasury/ IRS 46.022]
pp. Automated Information Analysis System [Treasury/IRS 46.050]

Dated: September 10, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

[FR Doc. 01–23368 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Administrative Remedies, Closing Agreements.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Stewart, Revenue Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8200.

SUPPLEMENTARY INFORMATION:

Title: Administrative Remedies, Closing Agreements.

OMB Number: 1512–0528.

Abstract: 26 U.S.C. 7121 authorizes the Bureau of Alcohol, Tobacco and Firearms to prescribe regulations for entering into an agreement in writing with any person relating to any tax liability of such person imposed under 26 U.S.C. which is enforced and administered by ATF. Closing agreements may be related to the total tax liability of the taxpayer or to one or more separate items affecting the tax liability.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23432 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Proprietors or Claimants Exporting Liquors.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Proprietors or Claimants Exporting Liquors.

OMB Number: 1512–0385.

Recordkeeping Requirement ID Number: ATF REC 5900/1.

Abstract: Distilled spirits, Wine and beer may be exported from bonded premises without payment of excise taxes or they may be exported if their taxes have been paid and the exporters may claim drawback of the taxes paid. This recordkeeping requirement is needed to allow the amounts exported to be verified and to maintain accountability over products. The records retention requirement for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 120.

Estimated Time Per Respondent: 60 hours per year.

Estimated Total Annual Burden Hours: 7,200.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23433 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Prpposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Manufacturers of Nonbeverage

Products-Records to Support Claims for Drawback.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Steve Simon, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8522.

SUPPLEMENTARY INFORMATION:

Title: Manufacturers of Nonbeverage Products-Records to Support Claims for Drawback.

OMB Number: 1512–0379.

Recordkeeping Requirement ID Number: ATF REC 5530/2.

Abstract: The recordkeeping requirements included in ATF REC 5530/2 are part of the system that is necessary to prevent diverson of drawback spirits to beverage use. The records are necessary to maintain accountability over these spirits. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 611.

Estimated Time Per Respondent: 21 hours per year.

Estimated Total Annual Burden Hours: 12,831.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23439 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Wholesale Dealers Records of Receipt of Alcoholic Beverages, Disposition of Distilled Spirits, and Monthly Summary Report.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachussetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Wholesale Dealers Records of Receipt of Alcoholic Beverages, Disposition of Distilled Spirits, and Monthly Summary Report.

OMB Number: 1512–0353.

Recordkeeping Requirement ID Number: ATF REC 5170/2.

Abstract: ATF uses these records and reports as an accounting tool to ensure protection of the revenue. Records of receipt and disposition are the basic documents that describe the activities of wholesale dealers. They provide an audit trail of taxable commodities from point of production to point of sale. Records of disposition are required only for distilled spirits. ATF requires the monthly report only in exceptional circumstances to ensure that a particular wholesale dealer is maintaining the required records. The records retention requirement is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 2 hours per month.

Estimated Total Annual Burden Hours: 1,200.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23440 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent

burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Personnel Security Request.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Terry L. Cates, Office of Inspection, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7800.

SUPPLEMENTARY INFORMATION:

Title: Personnel Security Request.

OMB Number: 1512–0565.

Form Number: ATF F 8620.5.

Abstract: ATF F 8620.5 is an internal use form to gather preliminary information from an individual desiring access to ATF facilities, information, or data. The information requested is necessary to permit ATF to begin the preliminary criminal records search on the applicant.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 83.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23441 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the National Repository for the Collection and Inventory of Information Related to Arson and the Criminal Misuse of Explosives.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to William Spruce, Chief, Arson and Explosives National Repository Branch, 1120 Vermont Avenue, NW., Washington, DC 20212, (202) 927–4590.

SUPPLEMENTARY INFORMATION:

Title: A National Repository for the Collection and Inventory of Information Related to Arson and the Criminal Misuse of Explosives.

OMB Number: 1512–0564.

Abstract: Title 18 United States Code, Section 846(b) authorizes the Secretary of the Treasury to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. The national repository of information will be available in a database designed and implemented with input from Federal, State, and local fire service and law enforcement authorities.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Federal Government.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 17.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23442 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent

burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Applications—Volatile Fruit-Flavor Concentrate Plants, Final Rule.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert P. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Applications—Volatile Fruit-Flavor Concentrate Plants, Final Rule.

OMB Number: 1512–0046.

Form Number: ATF F 27-G (5520.3).

Recordkeeping Requirement ID Number: ATF REC 5520/2.

Abstract: Persons who wish to establish premises to manufacture volatile fruit-flavor concentrates must file an application. ATF uses the application to identify persons and premises that manufacture volatile fruit-flavor concentrates. Volatile fruit-flavor concentrates contain alcohol and have a potential to be used for beverage purposes on which tax is imposed.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 40.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23448 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Drawback of Tax on Tobacco Products and Cigarette Papers and Tubes-Export Shipment.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Drawback of Tax on Tobacco Products and Cigarette Papers and Tubes-Export Shipment.

OMB Number: 1512–0533.

Recordkeeping Requirement ID Number: ATF REC 5210/2.

Abstract: Tobacco products have historically been a major source of excise tax revenues for the Federal government. In order to safeguard these taxes, tobacco products manufacturers are required to maintain a system of records designed to establish accountability over the tobacco products and cigarette papers and tubes. Exporters of tobacco products and cigarette papers and tubes on which they have paid tax may claim drawback of tax by complying with the requirements of laws and regulations. The records retention period is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 5.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23449 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application For Registration of Firearms Acquired By Certain Governmental Entities.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Art Resnick, Chief, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8320.

SUPPLEMENTARY INFORMATION:

Title: Application For Registration of Firearms Acquired By Certain Governmental Entities.

OMB Number: 1512–0029.

Form Number: ATF F 10 (5320.10).

Abstract: ATF F 10 (5320.10) is used by State and local government agencies to effect the registration of otherwise unregisterable National Firearms Act (NFA) firearms. The information on the form is verified by ATF Personnel in the processing of the application to ensure that an unregistered NFA firearm is being registered and that the applicant is a government agency eligible to possess the firearm.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 300.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 300.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23450 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Offer In Compromise of Liability Incurred Under the Federal Alcohol Administration Act.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Rosa Jeter, Market Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8130.

SUPPLEMENTARY INFORMATION:

Title: Offer In Compromise of Liability Incurred Under the Federal Alcohol Administration Act.

OMB Number: 1512–0222.

Form Number: ATF F 5640.2.

Abstract: In 1935, Congress passed the Federal Alcohol Administration Act (FAA Act). Persons who have committed violations of the FAA Act may submit an offer in compromise. The offer is a request by the party in violation to compromise penalties for the violations in lieu of civil or criminal action. ATF F 5640.2 identifies the violation(s) to be compromised by the person committing them, the amount of the offer plus a justification for acceptance of the offer.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 12.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 24.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

Dated: September, 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23451 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Restoration of Firearms and/or Explosives Privileges.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Vivian Pena, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7770.

SUPPLEMENTARY INFORMATION:

Title: Application for Restoration of Firearms and/or Explosives Privileges.

OMB Number: 1512–0005.

Form Number: ATF F 3210.1.

Abstract: The information on the form is required in order to determine whether or not firearms and/or explosives privileges may be restored. It is used to conduct an investigation to establish if it is likely that the applicant will act in a manner dangerous to public safety or contrary to public interest.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,500.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23452 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Formula and Process for Nonbeverage Product.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Steve Simon, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8183.

SUPPLEMENTARY INFORMATION:

Title: Formula and Process for Nonbeverage Product.

OMB Number: 1512–0095.

Form Number: ATF F 5154.1.

Abstract: The information collected on ATF F 5154.1 is used by ATF laboratory personnel to determine whether the product described on the form is eligible for nonbeverage drawback. This determination is made once for each formula that is submitted. Records must be kept as long as claims are filed under the formula, and for 3 years thereafter.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 611.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,500.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23453 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Privacy Act of 1974, as Amended; System of Records

AGENCY: Office of Thrift Supervision, 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 Office of Thrift Supervision (OTS), 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 OTS has completed a review of its Privacy Act systems of records notices to identify minor changes that will more accurately describe these records.

Other changes throughout the document are editorial in nature and consist principally of changes to system locations and system manager addresses and or titles in several systems of records. Editorial changes were also made to Appendix A.

The following systems of records have been deleted from OTS' inventory of Privacy Act notices: OTS .007—Employee Parking (December 14, 2000, at 65 FR 78263); OTS .010—Inquiry/Request System (January 12, 1999, at 64 FR 67966), and OTS .013—Personnel Security and Suitability Program (December 14, 2000, at 65 FR 78261).

Systems Covered by This Notice

This notice covers all systems of records adopted by OTS up to August 15, 2001. The systems notices are reprinted in their entirety following the Table of Contents.

Dated: September 10, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Table of Contents

Office of Thrift Supervision Treasury/OTS .001

SYSTEM NAME:

Confidential Individual Information System—Treasury/OTS

SYSTEM LOCATION:

Enforcement Division, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552. Computerized records of Suspicious Activity Reports (SAR), with status updates, are managed by FinCEN pursuant to a contractual agreement, and are stored at the Internal Revenue Service's Computing Center in Detroit, Michigan. Authorized personnel at the Federal financial regulatory agencies have on-line access to the computerized database managed by FinCEN through individual work stations that are linked to the database central computer.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Directors, officers, employees, agents, borrowers, and persons participating in the conduct of the affairs of entities regulated by the OTS who have been involved in suspected criminal activity or suspicious financial transactions and referred to law enforcement officials; and other individuals who have been involved in irregularities, violations of law, or unsafe or unsound practices referenced in documents received by OTS in the exercising of its supervisory functions.

These records also contain information concerning individuals who have filed notices of intention to acquire control of a savings association; controlling persons of companies that have applications to acquire control of a savings association; and organizers of savings associations who have sought Federal Savings and Loan Insurance Corporation (FSLIC) or Saving Association Insurance Fund (SAIF) insurance of accounts or federal charters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application information and inter-agency and intra-agency correspondence, memoranda and reports. The SAR contains information identifying the financial institution involved, the suspected person, the type of suspicious activity involved, the amount of loss known, and any witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1464; 44 U.S.C. 3101.

PURPOSE(S):

The overall system serves as a central OTS repository for investigatory or enforcement information related to the responsibility of OTS to examine and supervise savings associations. It also serves to store information on applicants to acquire, control, or insure a savings association in connection with OTS's regulatory responsibilities.

The system maintained by FinCEN serves as the database for the cooperative storage, retrieval, analysis, and use of information relating to Suspicious Activity Reports made to or by the Federal financial regulatory agencies and FinCEN to various law enforcement agencies for possible criminal, civil or administrative proceedings based on known or suspected violations affecting or involving persons, financial institutions, or other entities under the supervision or jurisdiction of such Federal financial regulatory agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used to: (1) Provide the Department of Justice with periodic reports on the number, amount, individual identity and other details concerning outstanding potential criminal violations of the law that have been referred to the Department; (2) Provide the Federal financial regulatory agencies and FinCEN with information relevant to their operations; (3) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (4) Provide information or records to any appropriate governmental agency or self-regulatory organization charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing a statute, rule, regulation, order, policy, or license; (5) Disclose, when considered appropriate, information to a bar association, or other professional organizations performing similar functions, for possible disciplinary action; (6) Disclose information when appropriate to international and foreign governmental authorities in accordance with law and formal or informal international agreements; and (7) Provide information to any person with whom the OTS contracts to reproduce, by typing, photocopying or other means, any record within this system for use by the OTS and its staff in connection with their official duties or to any person who is utilized by the OTS to perform

clerical or stenographic functions relating to the official business of the OTS.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media and in paper files.

RETRIEVABILITY:

Computer output and file folders are retrievable by indexes of data fields, including name of financial institution and individual's name.

SAFEGUARDS:

Paper files are stored in lockable metal file cabinets with access limited to authorized individuals. Computer disks maintained at OTS are accessed only by authorized personnel. The database maintained by FinCEN complies with applicable security requirements of the Department of the Treasury. On-line access to the information in the database is limited to authorized individuals, and each individual has been issued a non-transferable identifier or password.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESSES:

Deputy Chief Counsel for Enforcement. See ''System location'' for address.

NOTIFICATION PROCEDURE:

The system is exempt from notification and record-access requirements and requirements that an individual be permitted to contest its contents under 5 U.S.C. 552a(j)(2) and (k)(2) as relating to investigatory material compiled for law enforcement purposes.

RECORD ACCESS PROCEDURE:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Suspicious activity reports and related historical information and updating forms compiled by financial institutions, the OTS, and other Federal financial regulatory agencies for law enforcement purposes. The OTS will also include information from applicants, inter-agency and intra-agency correspondence, memoranda, and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

Treasury/OTS .002

SYSTEM NAME:

Correspondence/Correspondence Tracking.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

White House and Executive Office of the President officials, Members of Congress, Treasury Department officials, the general public, and businesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming correspondence addressed to the Director of OTS, letters from members of Congress transmitting letters from constituents or making inquiries; OTS responses; OTS memoranda and notes used to prepare responses; and information concerning internal office assignments, processing and response to the correspondence.

PURPOSE(S):

To maintain written records of correspondence addressed to the Director of OTS and Congressional correspondence; to track the progress of the response; to document the completion of the response to the incoming correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Disclosures may be made to a Congressional office from the records of an individual in response to an inquiry made at the request of the individual to whom the record pertains; (2) Information may be disclosed to the appropriate governmental agency charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing a statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic media and in paper files.

RETRIEVABILITY:

Records are maintained by name of individual; assignment control number.

SAFEGUARDS:

Access to paper records is limited to authorized personnel with a direct need to know. Some paper records are maintained in locked file cabinets in a secured office with access limited to those personnel whose official duties require access. Access to computerized records is limited, through the use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Computerized records relating to non-congressional correspondence are retained for two (2) years after the Director's term. Computerized records relating to congressional correspondence are kept permanently. Paper records are retained for two (2) years after the Director's or member of Congress' term, then transferred directly to the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Congressional Affairs. See ''System location'' for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORDS ACCESS PROCEDURE:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Congressional letters and responses from a Member of Congress and/or a constituent.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .003

SYSTEM NAME:

Consumer Complaint System.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who submit inquiries or complaints concerning federally insured depository institutions, service corporations, and subsidiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consumer's name, savings association's docket number, case number as designated by a Consumer Complaint Case number. Within these categories of records, the following information may be obtained: consumer's address, source of inquiry or complaint, nature of the inquiry or complaint, nature of the inquiry or complaint designated by instrument and complaint code, information on the investigation and resolution of inquiries and complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 57a(f), 5 U.S.C. 301.

PURPOSE(S):

OTS uses this system to track individual complaints and to provide additional information about each institution's compliance with regulatory requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Information may be disclosed to officials of regulated savings associations in connection with investigation and resolution of complaints and inquiries; (2) relevant information may be made available to appropriate law enforcement agencies or authorities in connection with investigation and/or prosecution of alleged civil, criminal and administrative violations; (3) disclosures may be made to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (4) disclosures may be made to other Federal and nonfederal governmental supervisory or regulatory authorities when the subject matter is within such other agency's jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files and on electronic media.

RETRIEVABILITY:

By name of individual, complaint case number, savings association name, docket number, region complaint code, instrument code, source code or by some combination thereof.

SAFEGUARDS:

Paper records are maintained in locked file cabinets with access limited to those personnel whose official duties require access. Access to computerized records is limited, through use of the system passwords, to those whose official duties require access.

RETENTION AND DISPOSAL:

Active paper files are maintained until the case is closed. Closed files are retained six (6) years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Consumer Programs. See ''System location'' for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Inquirer or complainant (or his or her representative which may include a member of Congress or an attorney); savings association officials and employees; compliance/safety and soundness examiner(s); and other supervisory records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .004

SYSTEM NAME:

Criminal Referral Database.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suspected of having committed crime(s) and individuals indicted or convicted of crime(s) against or involving savings associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal referrals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1464; 44 U.S.C. 3101.

PURPOSE(S):

This system lists all matters referred to the Department of Justice for possible criminal proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information may be disclosed to the appropriate governmental agency charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing a statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files and on electronic media.

RETRIEVABILITY:

Records are filed by name of individual, savings institution or referral control number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Access is limited to personnel whose official duties require such access and who have a need to know the information in a record for a job-related purpose. Access to computerized records is limited, through use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes, and maintained in electronic form as long as needed for the purpose for which the information was collected. Records will then be disposed of in accordance with applicable law.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief Counsel for Enforcement. See ''System location'' for address.

NOTIFICATION PROCEDURE:

This system is exempt from notification and record-access requirements and requirements that an individual be permitted to contest its contents under 5 U.S.C. 552a(j)(2) and (k)(2) as relating to investigatory material compiled for law enforcement purposes.

RECORDS ACCESS PROCEDURE:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Criminal Referral forms compiled for law enforcement purposes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

Treasury/OTS .005

SYSTEM NAME:

Employee Counseling Services.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who seek counseling services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Counseling records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

PURPOSE(S):

To provide a history and record of the employee counseling session(s) and to assist the counselor in identifying and resolving employee problem(s).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

This system will have minimal effect on individual privacy because access is limited to the employee counseling program counselor. Under special and emergency circumstances records may be released to medical personnel, research personnel, and as a result of a court order.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files.

RETRIEVABILITY:

Records are retrieved by a number assigned to employee.

SAFEGUARDS:

Records are maintained in locked file cabinet. Access is limited to the employee counselor.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Human Resources Branch. See ''System location'' for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Employees and counselors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .006

SYSTEM NAME:

Employee Locator File.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All present employees of the OTS and persons whose employment has been terminated within the last six months.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, present address, telephone number, and the name, address, and telephone number of another person to notify in case of emergency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

PURPOSE(S):

This system provides current information on employee's address and emergency contact person.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Disclosure of information may be made to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) medical personnel in case of an emergency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files and on electronic media.

RETRIEVABILITY:

Records are filed by name of individual.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Access is limited to those personnel whose official duties require such access and who have a need to know information in a record for a particular job-related purpose. Access to computerized records is limited, through use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are maintained until termination of employee's employment with OTS. After termination, records are retained for six months then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Human Resources Branch. See ''System location'' for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

The individual whose record is being maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .008

SYSTEM NAME:

Employee Training Database.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Office of Thrift Supervision.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual employee records are maintained by name, course taken, social security number, position, division, and manager name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101.

PURPOSE(S):

To maintain necessary information on training taken by employees through outside sources and vendors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records are not disclosed outside of OTS.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media.

RETRIEVABILITY:

Records are filed by individual name, social security number and course taken.

SAFEGUARDS:

Access to computerized records is limited, through use of a password, to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Professional Development Branch. See ''System location'' for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Personnel records and individual development plans completed by employee and supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .011

SYSTEM NAME:

Positions/Budget.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current employees of the Office of Thrift Supervision.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual employee records are kept by office and agency as follows: Name, title, entered on duty date, service computation date, occupation series, social security number, grade, current salary, location of employee, date of last promotion, and eligibility for promotion. Records are kept for each office (and, where appropriate, for the agency) on number of vacancies, authorized position ceilings, and number of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

PURPOSE(S):

The system allows the OTS Budget Division the ability to track positions by Office to assure that assigned Full-Time Equivalent ceilings are not exceeded and remain within the limits set by the Director of the OTS. The system also provides information to each office which can be used in developing their calendar year compensation budget.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information may be disclosed to the appropriate governmental agency charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing a statute, rule, regulation, order, or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files and on electronic media.

RETRIEVABILITY:

Records are filed by name of individual.

SAFEGUARDS:

Paper records are maintained in file folders in secured areas. Access is limited to personnel whose official duties require such access and who have a need to know the information in a record for a particular job-related purpose. Access to computerized records is limited, through use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Planning, Budget and Finance Division. See ''System location'' for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .012

SYSTEM NAME:

Payroll/Personnel System & Payroll Records

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current Office of Thrift Supervision (OTS) employees and all former employees of the OTS, within the past three years.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to (1) employee status, grade, salary, pay plan, hours worked, hours of leave taken and earned, hourly rate, gross pay, taxes, deductions, net pay, location, and payroll history; (2) employee's residence, office, social security number, and address; (3) Personnel actions (SF–50), State employees' withholding exemption certificates, Federal employees' withholding allowance certificates (W4), Bond Allotment File (SF–1192), Federal Employee's Group Life Insurance (SF–2810 and 2811), Savings Allotment-Financial Institutions, Address File (OTS Form 108), Union Dues Allotment, time and attendance reports, individual retirement records (SF–2806), Combined Federal Campaign allotment, direct deposit, health benefits, and thrift investment elections to either the Federal Thrift Savings Plan (TSP–1) or OTS' Financial Institutions Thrift Plan (FITP–107 and K 1–2).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

PURPOSE(S):

Provides all the key personnel and payroll data for each employee which is required for a variety of payroll and personnel functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) In the event that records maintained in this system of records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of implementing the statute, or rule or regulation or order issued pursuant thereto; (2) a record from this system may be disclosed to other Federal agencies and the Office of Personnel Management if necessary for or regarding the payment of salaries and expenses incident to employment at the Office of Thrift Supervision or other Federal employment, or the vesting, computation, and payment of retirement or disability benefits; (3) a record from this system may be disclosed if necessary to support the assessment, computation, and collection of federal, state, and local taxes, in accordance with established procedures; (4) disclosure of information may be made to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) records from this system may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, and identifying sources of income, and for other support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media, microfiche, and in paper files.

RETRIEVABILITY:

Records are filed by individual name, social security number and by office.

SAFEGUARDS:

Paper and microfiche records are maintained in secured offices and access is limited to personnel whose official duties require such access and who have a need to know the information in a record for a particular job-related purpose. Access to computerized records is limited, through the use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Human Resources Branch. See ''System location'' for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Personnel and payroll records of current and former employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

APPENDIX A

Addresses of Office of Thrift Supervision Regional Offices:

Northeast Region: 10 Exchange Place, 18th Floor, Jersey City, NJ 07302.

Southeast Region: 1475 Peachtree Street, NE, Atlanta, GA 30309.

Central Region: One South Wacker Drive, Suite 2000, Chicago, IL 60606.

Midwest Region: 225 E. John Carpenter Freeway, Suite 500, Irving, TX 75062.

West Region: Office of Thrift Supervision, Pacific Plaza, 2001 Junipero Serra Boulevard, Suite 650, Daly City, CA 94014–1976.

[FR Doc. 01–23369 Filed 9–19–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Prosthetics and Special-Disabilities Programs (Committee) will be held Monday and Tuesday, September 24–25, 2001, at VA Headquarters, Room 630, 810 Vermont Avenue, NW, Washington, DC. The September 24 session will convene at 8 a.m. and adjourn at 4 p.m. and the September 25 session will convene at 8

a.m. and adjourn at 12 noon. The purpose of the Committee is to advise the Department on its prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also advises the Department on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

On both days, the Advisory Committee on prosthetics and Special-Disabilities Programs will receive briefings by the National Program Directors of the Special-Disabilities Programs regarding the status of their activities over the last four months and present any critical issues requiring the Committee's consideration.

The meeting is open to the public. For those wishing to attend, contact Kathy Pessagno, Veterans Health Administration (113), phone (202) 273–8512, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, prior to September 21, 2001.

Dated: September 13, 2001.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–23348 Filed 9–19–01; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 66, No. 183

Thursday, September 20, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review, Comment Request

Correction

In notice document 01–22701 beginning on page 47192, in the issue of Tuesday, September 11, 2001, make the following correction:

On page 47192, in the third column, in the 11th line from the bottom, the web address is corrected to read as follows: *''http://www.eia.doe.gov/fuelelectric.html*''.

[FR Doc. C1–22701 Filed 9–19–01; 8:45 am]

BILLING CODE 1505–01–D

Reader Aids

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Florida; comments due by 9-24-01; published 8-23-01

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Pennsylvania; comments due by 9-24-01; published 8-14-01

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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. 93/P.L. 107–27

Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28

To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29

To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the ''Marjory Williams Scrivens Post Office''. (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30

To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31

To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the ''Edward N. Cahn Federal Building and United States Courthouse''. (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32

To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the ''W. Joe Trogdon Post Office Building''. (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33

To designate the United States courthouse located at 40 Centre Street in New York, New York, as the ''Thurgood Marshall United States Courthouse''. (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34

To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the ''G. Elliot Hagan Post Office Building''. (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35

To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the ''M. Caldwell Butler Post Office Building''. (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36

To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the ''Elwood Haynes 'Bud' Hillis Post Office Building''. (Aug. 20, 2001; 115 Stat. 218)

Last List August 21, 2001

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