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

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 51

**[Docket Number FV–00–304]**

## Oranges and Grapefruit (Texas and States Other Than Florida, California and Arizona); Grade Standards

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule revises the United States Standards for Grades of Oranges (Texas and States other than Florida, California and Arizona) and the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California and Arizona). The revisions change the requirements for standard pack and standard sizing for oranges and the requirements for standard pack for grapefruit. The purpose of these revisions is to reflect current cultural and marketing practices and to give industry greater flexibility in marketing and packaging using developing technologies. The Agricultural Marketing Service (AMS), in cooperation with industry and other interested parties, develops and improves standards of quality, condition, quantity, grade and packaging in order to facilitate commerce by providing buyers, sellers and quality assurance personnel with uniform language and criteria for describing various levels of quality and condition as valued in the marketplace.

**DATES:** This rule is effective September 25, 2001. Comments must be received by November 23, 2001.

**ADDRESSES:** Interested parties are invited to submit written comments concerning this 1 interim final rule. Comments must be sent to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 2065 South Building, Stop 0240, Washington, DC 20250; Fax (202) 720–8871, E-mail *FPBDocket_clerk@usda.gov.* Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** David L. Priester, at the above address or call (202) 720–2185; E-mail *David.Priester@usda.gov.*

*Executive Order 12988 and 12866*

**SUPPLEMENTARY INFORMATION:** This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

### Background

The United States Standards for Grades of Oranges (Texas and States other than Florida, California and Arizona), and the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California and Arizona) were last revised in October 1969. Members of the Texas industry have requested that the standards be revised for the next season in order to bring them into conformity with current packaging and marketing practices and technologies and with similar provisions in the Texas Marketing Order for oranges and grapefruit (7 CFR part 906).

The main purpose of the revision is to achieve closer conformity with current marketing practices used in the industry. The major changes requested include revising the standard pack sections of the orange and grapefruit standards, and the standard sizing section of the orange standard by redefining the requirements in each section. In addition, the standards have been reviewed for need, clarity and effectiveness as part of a periodic review. Accordingly, this rule will revise the standards as discussed below.

As a result of the industry request, the following changes are being made to the United States Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) and to the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona). Section 51.691 paragraph (a), is revised by changing the statement ''Fruit shall be fairly uniform in size, unless specified as uniform in size, and shall be place packed in boxes or cartons and arranged according to the approved and recognized methods'' to ''Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods.'' New packing technologies, such as mechanical filling of containers, are utilizing containers other than boxes and cartons. Reusable plastic containers are now being used throughout the industry.

Section 51.691, paragraph (b) states ''All containers shall be tightly packed and well filled but the contents shall not show excessive or unnecessary bruising because of overfilled containers. When oranges are packed in wire-bound boxes or cartons, each container shall be at least level full at time of packing,'' is removed. Since the preceding paragraph states that the fruit shall be packed and arranged according to approved and recognized methods, paragraph (b) is not necessary. There is no definition for ''excessive or unnecessary bruising'' and since injury by bruising is addressed in the defects portion of the standards there is no need for a reference to this defect in the pack section. Also, with the advent of new packaging technologies, wire-bound crates are not commonplace in the orange industry so there is no need for reference to this type of package.

Section 51.630, paragraph (b) of the grapefruit standards contains basically the same requirements as the orange standards and is being removed for the same reasons.

Section 51.691, Table III, currently includes the size and count of oranges when packed in 1⅖ or 7/10 bushel containers. Because the industry no longer packs oranges in 1⅖ bushel containers, the table will be revised to

include size and count of oranges packed in 7/10 bushel containers only. In addition, the sizes will be revised to update the current sizes now being used in the orange industry and consistent with the provisions in the regulations in the Texas marketing order. The following tables show the changes.

Table III currently reads:

TABLE III

[When packed in 1 2/5 bushel or 7/10 bushel containers]

| Size and count in 1 2/5 bushel | Count in 7/10 bushel | Diameter in inches | |
|---|---|---|---|
| | | Minimum | Maximum |
| 100's | 48 or 50 | 3 7/16 | 3 13/16 |
| 125's | 64 | 3 3/16 | 3 9/16 |
| 163's | 80 | 2 15/16 | 3 5/16 |
| 200's | 100 | 2 11/16 | 3 1/16 |
| 252's | 125 | 2 7/16 | 2 12/16 |
| 288's | 144 | 2 4/16 | 2 9/16 |
| 324's | 162 | 2 3/16 | 2 8/16 |

Table III will be revised to read:

TABLE III.—7/10 BUSHEL CARTON

| Pack size/number of oranges | Diameter in inches | |
|---|---|---|
| | Minimum | Maximum |
| 24 | 3 12/16 | 5 1/16 |
| 32 | 3 6/16 | 4 9/16 |
| 36 | 3 4/16 | 4 6/16 |
| 40 | 3 2/16 | 4 4/16 |
| 48 | 2 15/16 | 4 |
| 56 | 2 13/16 | 3 13/16 |
| 64 | 2 11/16 | 3 10/16 |
| 72 | 2 9/16 | 3 8/16 |
| 88 | 2 8/16 | 3 4/16 |
| 113 | 2 7/16 | 3 |
| 138 | 2 6/16 | 2 12/16 |

Section 51.691, paragraph (d) which states, ''Uniform in size means that not more than the number of fruits permitted in 51.689, Tables I and II, vary more than the following amounts: (1) 163 size or smaller-not more than four-sixteenths inch in diameter; and (2) 125 size or larger-not more than five-sixteenths inch in diameter.'' is removed since the term ''uniform in size'' is no longer being used.

Technology has advanced to the point where it is no longer customary to ''shake down'' the contents of the container to become level full. The use of automated or mechanical filling operations have made this practice obsolete. Section 51.692, paragraph (a), will be revised, deleting the last sentence, which reads, ''*And provided further,* that when packed in boxes or cartons the contents have been properly shaken down and the container is at least level full at time of packing.''

Section 51.630, paragraph (b) which states ''All packages shall be tightly packed and well filled but the contents shall not show excessive or unnecessary bruising because of overfilled packages. When grapefruit are packed in cartons or in wirebound boxes, each container shall be at least level full at time of packing'' will be removed. Since the preceding paragraph already states that the fruit shall be packed and arranged according to approved and recognized methods, paragraph (b) is not necessary. In addition, with the advent of new packaging technologies, wire-bound crates are not commonplace in the grapefruit industry.

Section 51.630, Table III, currently includes the size and count of grapefruit when packed in 1 2/5 bushel containers. Because the industry no longer packs grapefruit in 1 2/5 bushel containers, the table will be revised to include size and count of grapefruit packed in 7/10 bushel containers only. In addition, the sizes will be revised to update the current sizes now being used in the grapefruit industry and consistent with the provisions in the regulations in the Texas marketing order. The following tables show the changes.

Table III currently reads:

TABLE III.—1 2/5 BUSHEL BOX

[Diameter in inches]

| Pack size | Minimum | Maximum |
|---|---|---|
| 46's | 4 5/16 | 5 |
| 54's or 56's | 4 2/16 | 4 12/16 |
| 64's | 3 15/16 | 4 8/16 |
| 70's or 72's | 3 13/16 | 4 5/16 |
| 80's | 3 10/16 | 4 2/16 |
| 96's | 3 6/16 | 3 14/16 |

TABLE III.—1 2/5 BUSHEL BOX—Continued

[Diameter in inches]

| Pack size | Minimum | Maximum |
|---|---|---|
| 112's or 113's | 3 2/16 | 3 10/16 |
| 125's or 126's | 3 | 3 8/16 |

Table III will be revised to read:

TABLE III.—7/10 BUSHEL CARTON

| Pack size/number of grapefruit | Diameter in inches | |
|---|---|---|
| | Minimum | Maximum |
| 18 | 4 15/16 | 5 9/16 |
| 23 | 4 5/16 | 5 |
| 27 | 4 2/16 | 4 12/16 |
| 32 | 3 15/16 | 4 8/16 |
| 36 | 3 13/16 | 4 5/16 |
| 40 | 3 10/16 | 4 2/16 |
| 48 | 3 9/16 | 3 14/16 |
| 56 | 3 5/16 | 3 10/16 |

Since Table III will be revised to reflect the current packing methods being used throughout the grapefruit industry, § 51.630, paragraph (d) which is new paragraph (c) will be revised by changing the statement for ''(1) 64 size and smaller-not more than six-sixteenths inch in diameter'' to ''(1) 32 size and smaller-not more than six-sixteenths inch in diameter'' and by changing the statement for ''(2) 54 size and larger-not more than nine-sixteenths inch in diameter'' to ''(2) 27 size and larger-not more than nine-sixteenths inch in diameter.'' This change is necessary because the carton sizes are being reduced from 1 2/5 bushel to 7/10 bushel. In order to maintain consistency with the current practices, because the carton size has been reduced in volume by 50 percent, the number of fruit will also be reduced 50 percent, in order to preserve the equivalent sizes. The smaller number of fruit will now be reflected in the smaller sized carton.

**The Regulatory Flexibility Act and Effects on Small Business**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Accordingly, AMS has prepared this initial regulatory flexibility analysis. Interested parties are invited to submit information on the regulatory and informational impacts of this action on small entities.

There are approximately 315 producers of oranges and grapefruit in the production area and 16 handlers who would be affected by this amendment. Starting August 6, 2001, small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $750,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Under this definition, the majority of orange and grapefruit producers and handlers using the grade standards in this regulation may be classified as small entities.

Using an average f.o.b. price of $8.00 per carton, 11 handlers (69 percent) could be considered small businesses. Of the approximately 315 producers within the production area, few have sufficient acreage to generate sales in excess of $750,000; therefore, a majority of producers of oranges and grapefruit who will be affected by this rule may be classified as small entities.

This rule for the revision of U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary.

Pursuant to a request by the Texas fruit and vegetable industry, this rule will revise the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California and Arizona), and the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California and Arizona) that were issued under the Agricultural Marketing Act of 1946. The main purpose for the request was to bring the standards into conformity with current packaging and marketing practices and technologies. This rule specifically revises the standard pack sections of the orange and grapefruit standards and the standard size section of the orange standard by redefining the requirements.

Agencies periodically review existing regulations. An objective of the review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The alternative option to this rule would be to leave the standards in part 51 unchanged. This is not a viable alternative because this amendment reflects current industry practices and is consistent with the regulations under the Texas orange and grapefruit marketing order (7 CFR part 906).

This rule contains no new information or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Department has not identified any relevant Federal rules

that duplicate, overlap, or conflict with this rule.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 60 days after publication in the **Federal Register** because: (1) This rule will make the standards reflect current cultural and marketing practices and give industry greater flexibility in marketing and packaging using developing technologies; (2) this change to the standard should be in effect for the next season (beginning September, 2001); and, (3) this rule provides a 60-day comment period and any comments will be considered prior to finalization of this rule.

**List of Subjects in 7 CFR Part 51**

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and record keeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is amended as follows:

## PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

**Authority:** 7 U.S.C. 1621–1627.

2. Section 51.630 is revised to read as follows:

### § 51.630 Standard Pack.

(a) Fruits shall be fairly uniform in size, unless specified as uniform in size. When packed in approved containers, fruit shall be arranged according to the approved and recognized methods.

(b) ''Fairly uniform in size'' means that not more than the number of fruit permitted in § 51.628, Tables I and II, are outside the ranges of diameters given in Table III.

TABLE III.—7/10 BUSHEL CARTON

| Pack size/number of grapefruit | Diameter in inches | |
|---|---|---|
| | Minimum | Maximum |
| 18 | 4 15/16 | 5 9/16 |
| 23 | 4 5/16 | 5 |
| 27 | 4 2/16 | 4 12/16 |
| 32 | 3 15/16 | 4 8/16 |
| 36 | 3 13/16 | 4 5/16 |
| 40 | 3 10/16 | 4 2/16 |
| 48 | 3 9/16 | 3 14/16 |
| 56 | 3 5/16 | 3 10/16 |

(c) ''Uniform in size'' means that not more than the number of fruit permitted in § 51.628, Tables I and II, vary more than the following amounts:

(1) 32 size and smaller—not more than six-sixteenths inch in diameter; and

(2) 27 size and larger—not more than nine-sixteenths inch in diameter.

(d) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

3. Section 51.691 is revised to read as follows:

### § 51.691 Standard pack for oranges except Temple variety.

(a) Fruit shall be fairly uniform in size. When packed in approved containers, fruit shall be arranged according to the approved and recognized methods.

(b) ''Fairly uniform in size'' means that not more than the number of fruit permitted in § 51.689, Tables I and II, are outside the ranges of diameters given in Table III:

TABLE III.—7/10 BUSHEL CARTON

| Pack size/number of oranges | Diameter in inches | |
|---|---|---|
| | Minimum | Maximum |
| 24 | 3 12/16 | 5 1/16 |
| 32 | 3 6/16 | 4 9/16 |
| 36 | 3 4/16 | 4 6/16 |
| 40 | 3 2/16 | 4 4/16 |
| 48 | 2 15/16 | 4 |
| 56 | 2 13/16 | 3 13/16 |
| 64 | 2 11/16 | 3 10/16 |
| 72 | 2 9/16 | 3 8/16 |
| 88 | 2 8/16 | 3 4/16 |
| 113 | 2 7/16 | 3 |
| 138 | 2 6/16 | 2 12/16 |

(c) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

4. In § 51.692, paragraph (a) is revised to read as follows:

### § 51.692 Standard Sizing.

(a) Boxes, cartons, bag packs, or bulk loads in which oranges are not packed according to a definite pattern do not meet the requirements of standard pack, but may be certified as meeting the requirements of standard sizing:

*Provided,* that the ranges are fairly uniform in size as defined in § 51.691.

* * * * *

Dated: September 17, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01–23654 Filed 9–21–01; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NE–21–AD; Amendment 39–12441; AD 2001–19–02]**

**RIN 2120–AA64**

## Airworthiness Directives; General Electric Company (GE) CF34–3A1, –3B, and –3B1 Turbofan Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to GE CF34–3A1, –3B, and –3B1 turbofan engines with scavenge screens part numbers (P/N's) 4047T95P01 and 5054T86G02 installed in the B-sump oil scavenge system. This action requires initial and repetitive visual inspections and cleaning of the B-sump scavenge screens. This amendment is prompted by five reports of B-sump oil scavenge system failure causing engine in-flight shutdowns. The actions specified in this AD are intended to prevent B-sump scavenge screen blockage due to coking, which could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure.

**DATES:** Effective October 9, 2001. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 9, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 23, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–21–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. The service information referenced in this AD may be obtained from GE Aircraft Engines, 1,000 Western Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Barbara Caulfield, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7146; fax (781) 238–7199.

**SUPPLEMENTARY INFORMATION:** The FAA recently received reports of five in-flight shutdowns of CF34–3A1, –3B, and –3B1 engines, due to inadequate B-sump oil scavenging and subsequent oil release from the B-sump into the secondary air system. Four of these engines experienced internal fire due to oil ignition in the secondary air system; two of these engines experienced fan drive shaft separation due to heat distress; and one engine experienced an uncontained engine failure. The manufacturer has determined that the cause of inadequate B-sump oil scavenging in B-sump scavenge screen blockage due to deposits of coke. The manufacturers believes that the coke build up on the screens is the result of hot soak-back temperatures in the B-sump after each engine shutdown. Coke build up is causing scavenge screen blockage which can prevent the lube and scavenge oil pump fro effectively scavenging the oil from the B-sump during engine operation. Unscavanged oil accumulates in the B-sump, escapes across the carbon seal, and ignites in the secondary air system. This condition, if not corrected, could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure.

### Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Aircraft Engines (GEAE) Alert Service Bulletins (ASB's) CF34–AL, 79–A0014, Revision 1, dated August 23, 2001, and ASB CF34–BJ 79–A0015, Revision 1, dated August 23, 2001, that describe procedures for initial and repetitive visual inspections and cleaning of the B-sump scavenge screens.

### FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other GE CF34–3A1, –3B, and –3B1 turbofan engines of the same type design, this AD is being issued to prevent B-sump scavenge screen blockage due to coking, which could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure. This AD requires initial and repetitive visual inspections and cleaning of scavenge screens P/N's 4047T95P01 and 5054T86G02, installed in the B-sump oil scavenge system.

### Immediate Adoption of This AD

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

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped

postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–21–AD.'' The postcard will be date stamped and returned to the commenter.

## Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2001–19–02–AD General Electric Company:** Amendment 39–12441. Docket 2001–NE–21–AD.

### Applicability

This airworthiness directive (AD) is applicable to General Electric Company (GE) CF34–3A1, –3B, and –3B1 turbofan engines with scavenge screens part numbers (P/N's) 4047T95P01 and 5054T86G02 installed in the B-sump oil scavenge system. These engines are installed on, but not limited to, Bombardier Inc. (Canadair) Model CL–600–2A12, CL–600–2B16, and CL–600–2B19 airplanes.

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

### Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent B-sump scavenge screen blockage due to coking, which could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure, do the following:

### Initial Inspection and Cleaning of B-Sump Screens

(a) Perform an initial visual inspection and cleaning of scavenge screens, P/N's 4047T95P01 and 5054T86G02, installed in the B-sump oil scavenge system, in accordance with Accomplishment Instructions Paragraphs 3A through 3B of GE Aircraft Engines (GEAE) Alert Service Bulletins (ASB's) CF34–AL 79–A0014, Revision 1, dated August 23, 2001, and ASB CF34–BJ 79–A0015, Revision 1, dated August 23, 2001 and the following table:

INITIAL INSPECTION AND CLEANING SCHEDULE

| Engine hours time-since-new (TSN) | Inspect and clean |
|---|---|
| (1) Fewer than 4,000 hours time-since-new (TSN) or time-since-last-shop-visit (TSLSV). | Before 4,000 hours TSN or TSLSV. |
| (2) 4,000 to 8,000 hours TSN or TSLSV. | Within 500 hours time-in-service (TIS) after the effective date of this AD. |
| (3) 8,000 hours or greater TSN or TSLSV. | Within 100 hours TIS after the effective date of this AD. |

### Definition

(b) For the purposes of this Ad, a shop visit is defined as a shop visit during which the B-sump scavenge screens were cleaned, and the B-sump was removed from the engine and cleaned.

### Repetitive Inspections and Cleaning

(c) Perform repetitive visual inspections and cleaning for scavenge screens, P/N's 4047T95P01 and 5054T86G02, installed in the B-sump oil scavenge system, in accordance with Accomplishment Instructions Paragraph 3A through 3B of GE Aircraft Engines (GEAE) Alert Service Bulletins (ASB's) CF34–AL 79–A0014, Revision 1, dated August 23, 2001, and ASB CF34–BJ 79–A0015, Revision 1, dated August 23, 2001, and the following:

(1) At intervals not to exceed 500 hours TIS if no coke is found in screens during initial or repetitive inspections, and

(2) At intervals not to exceed 100 hours TIS if coke is found in screens during initial or repetitive inspections.

### Alternative Methods of Compliance

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

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

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

### Documents That Have Been Incorporated by Reference

(f) The inspections must be done in accordance with the following GE Aircraft Engines Alert Service Bulletins (ASB's):

| Document No. | Pages | Revision | Date |
|---|---|---|---|
| ASB CF34–AL S/B 79–A0014 ..... Total pages: 9 | All ..... | 1 | August 23, 2001. |

| Document No. | Pages | Revision | Date |
|---|---|---|---|
| ASB CF34–BJ S/B 79–A0015 ..... Total pages: 9 | All ..... | 1 | August 23, 2001. |

This incorporation by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from GE Aircraft Engines 1000 Western Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

**Effective Date of This AD**

(g) This amendment becomes effective on October 9, 2001.

Issued in Burlington, Massachusetts, on September 10, 2001.

**Donald E. Plouffe,**

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

[FR Doc. 01–23323 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NE–41–AD; Amendment 39–12442; AD 2001–19–03]**

**RIN 2120–AA64**

## Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) Model AE 3007A and AE 3007C Turbofan Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), that is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) Model AE 3007A and AE 3007C turbofan engines with a certain part number high pressure turbine (HPT) 1st to 2nd stage turbine spacer installed. This amendment requires removal and replacement of that HPT 1st to 2nd stage turbine spacer before it reaches its new reduced engine cycle life limit.This amendment is prompted by the results of a detailed component analysis that indicates that the HPT 1st to 2nd stage turbine spacer stresses are higher than predicted.The actions specified by this AD are intended to prevent HPT 1st to 2nd stage turbine spacer failure which could result in an uncontained engine failure and damage to the airplane.

**DATES:** Effective date October 29, 2001.

**FOR FURTHER INFORMATION CONTACT:** Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 E. Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7870, fax (847) 294–7834.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) Model AE 3007A and AE 3007C turbofan engines with HPT 1st to 2nd stage turbine spacer part number (P/N) 23058369 installed was published in the **Federal Register** on February 22, 2001 (66 FR 11126). That action proposed to require removal and replacement of the HPT 1st to 2nd stage turbine spacer P/N 23058369 before it reaches its new reduced engine cycle life limit.

### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

### Economic Impact

There are approximately 378 engines of the affected design in the worldwide fleet. The FAA estimates that 300 engines installed on 150 airplanes of U.S. registry would be affected by this proposed AD. It will take approximately 13 work hours per engine to accomplish the removal and replacement of the affected HPT 1st to 2nd stage spacer. The 13 work hours cited include teardown and reassembly from the module level, but not engine removal. Engines are rarely scheduled off-wing solely for the purpose of replacement of time-expired components.The average labor rate is $60 per work hour. Required parts will cost approximately $10,012 per engine. Based on these figures, the FAA estimates the total cost impact of the proposed AD on U.S. operators, to be $3,237,600. Because most of the fleet field parts are below the new value, special scheduling should not be required.

### Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under 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 final evaluation has been prepared for this action and it 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.

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended adding a new airworthiness directive to read as follows:

**2001–19–03 Rolls-Royce Corporation (formerly Allison Engine Company)** Model AE 3007A and AE 3007C turbofan engines with high pressure turbine (HPT) 1st to 2nd stage turbine spacer part number (P/N) 23058369 installed.

Amendment 39–12442. Docket 2000–NE–41–AD.

**Applicability**

This airworthiness directive (AD) is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) Model AE 3007A and AE 3007C turbofan engines with HPT 1st to 2nd stage turbine spacer P/N 23058369 installed. These engines are installed on, but not limited to Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB–145, and Cessna 750 series airplanes.

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

**Compliance**

Compliance with this AD is required as indicated, unless already done.

To prevent HPT 1st to 2nd stage turbine spacer failure, which could result in an uncontained engine failure and damage to the airplane, do the following:

**New Reduced Engine Cycle Life Limit**

(a) For all Rolls-Royce Corporation Model AE 3007A and AE 3007C turbofan engines with HPT 1st to 2nd stage turbine spacer, P/N 23058369 installed, remove spacer before reaching the new reduced engine cycle life limit of 9,400 cycles and replace with a serviceable part.

(b) Revise the airworthiness limitations section of the Instruction for Continued Airworthiness, as follows: P/N 23058369=9,400 cycles.

**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, Chicago Aircraft Certification Office. Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office (ACO).

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

**Special Flight Permits**

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

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

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

**Jay J. Pardee,**

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

[FR Doc. 01–23730 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. 29334; Amendment No. 71–33]**

## Airspace Designations; Incorporation By Reference

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends 14 CFR part 71 relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9J, Airspace Designations and Reporting Points. This action also explains the procedures the FAA will use to amend the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points incorporated by reference.

**EFFECTIVE DATE:** These regulations are effective September 16, 2001. The incorporation by reference of FAA Order 7400.9J is approved by the Director of the Federal Register as of September 16, 2001, through September 15, 2002.

**FOR FURTHER INFORMATION CONTACT:** Brenda Brown, Janet Glivings, or Christine Graves, Airspace and Rules Division (ATA–400), Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

### History

FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, listed Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points. Due to the length of these descriptions, the FAA requested approval from the Office of the Federal Register to incorporate the material by reference in the Federal Aviation Regulations section 71.1 (14 CFR 71.1). The Director of the Federal Register approved the incorporation by reference of FAA Order 7400.9H in section 71.1, effective September 16, 2000, through September 15, 2001. During the incorporation by reference period, the FAA processed all proposed changes of the airspace listings in FAA Order 7400.9H in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings were published in full text as final rules in the **Federal Register**. This rule reflects the periodic integration of these final rule amendments into a revised edition of Airspace Designations and Reporting Points, Order 7400.9J. The Director of the Federal Register has approved the incorporation by reference of FAA Order 7400.9J in section 71.1, as of September 16, 2001, through September 15, 2002. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71. Sections 71.5, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, 71.79, and 71.901 are also updated to reflect the incorporation by reference of FAA Order 7400.9J.

### The Rule

This action amends part 71 of the Federal Aviation Regulations (14 CFR part 71) to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9J, effective September 16, 2001, through September 15, 2002. During the incorporation by reference period, the FAA will continue to process all proposed changes of the airspace listings in FAA Order 7400.9J in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register**. The FAA will periodically integrate all final rule amendments into a revised edition of the Order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in section 71.1.

The FAA has determined that this action: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operating requirements of the airspace listings incorporated by reference in part 71. Consequently, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Because this action will

continue to update the changes to the airspace designations, which are depicted on aeronautical charts, and to avoid any unnecessary pilot confusion, I find that good cause exists, under 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

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

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

2. Section 71.1 is added to read as follows:

**§ 71.1 Applicability.**

The complete listing for all Class A, Class B, Class C, Class D, and Class E airspace areas and for all reporting points can be found in FAA Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9J is effective September 16, 2001, through September 15, 2002. During the incorporation by reference period, proposed changes to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as proposed rule documents in the **Federal Register**. Amendments to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9J may be obtained from the Airspace and Rules Division, ATA–400, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8783. Copies of FAA Order 7400.9J may be inspected in Docket No. 29334 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–200, Room 915G, 800 Independence Avenue, SW., Washington, DC, weekdays between 8:30 a.m. and 5:00 p.m., or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This section is effective September 16, 2001, through September 15, 2002.

**§ 71.5 [Amended]**

3. Section 71.5 is amended by removing the words ''FAA Order 7400.9H'' [1] and adding, in their place, the words ''FAA Order 7400.9J.''

**§ 71.31 [Amended]**

4. Section 71.31 is amended by removing the words ''FAA Order 7400.9H'' and adding, in their place, the words ''FAA Order 7400.9J.''

**§ 71.33 [Amended]**

5. Paragraph (c) of Section 71.33 is amended by removing the words ''FAA Order 7400.9H'' and adding, in their place, the words ''FAA Order 7400.9J.''

**§ 71.41 [Amended]**

6. Section 71.41 is amended by removing the words ''FAA Order 7400.9H'' and adding, in their place, the words ''FAA Order 7400.9J.''

**§ 71.51 [Amended]**

7. Section 71.51 is amended by removing the words ''FAA Order 7400.9H'' and adding, in their place, the words ''FAA Order 7400.9J.''

**§ 71.61 [Amended]**

8. Section 71.61 is amended by removing the words ''FAA Order 7400.9H'' and adding, in their place, the words ''FAA Order 7400.9J.''

**§ 71.71 [Amended]**

9. Paragraphs (b), (c), (d), (e), and (f) of Section 71.71 are amended by removing the words ''FAA Order 7400.9H'' and adding, in their place, the words ''FAA Order 7400.9J.''

**§ 71.79 [Amended]**

10. Section 71.79 is amended by removing the words ''FAA Order 7400.9H'' and adding, in their place, the words ''FAA Order 7400.9J.''

**§ 71.901 [Amended]**

11. Paragraph (a) of Section 71.901 is amended by removing the words ''FAA Order 7400.9H'' and adding, in their place, the words ''FAA Order 7400.9J.''

Issued in Washington, DC, September 10, 2001.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 01–23303 Filed 9–19–01; 3:45 pm]

BILLING CODE 4910–13–P

[1] Editorial note: The amended text in §§ 71.5, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, 71.79, and 71.901 expired as of September 15, 2001 (See 66 FR 56466, September 19, 2000).

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 01–ACE–6]**

## Amendment to Class E Airspace; Mosby, MO

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date of a direct final rule which revises Class E airspace at Mosby, MO.

**EFFECTIVE DATE:** 0901 UTC, November 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarter Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on June 18, 2001 (66 FR 32733). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on November 1, 2001. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on September 7, 2001.

**Richard L. Day,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 01–23779 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Airspace Docket No. 01–ACE–7]**

## Amendment to Class E Airspace; Ankeny, IA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends the Class E airspace area at Ankeny, IA. The FAA has developed Instrument Landing System (ILS) Runway (RWY) 36 ORIGINAL Standard Instrument Approach Procedure (SIAP), Area Navigation (RNAV) Global Positioning System (GPS) RWY 18 ORIGINAL SIAP and RNAV (GPS) RWY 22 ORIGINAL SIAP to serve Ankeny Regional Airport at Ankeny, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs and for other Instrument Flight Rules (IFR) operations at this airport.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the SIAPs and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

**DATES:** This direct final rule is effective on 0901 UTC, December 27, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 1, 2001.

**ADDRESSES:** Send comments regarding the rule in triplicate to: Manager, Operations and Airspace Branch, Air Traffic Division, ACE–530, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 01–ACE–7, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Operations & Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

**SUPPLEMENTARY INFORMATION:** The FAA has developed ILS RWY 36 ORIGINAL, RNAV (GPS) RWY 18 ORIGINAL, and RNAV (GPS) RWY 22 ORIGINAL SIAPs to serve Ankeny Regional Airport, Ankeny, IA. The amendment to Class E airspace at Ankeny, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 01–ACE–7.'' The postcard will be date stamped and returned to the commenter.

### Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

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

* * * * *

**ACE IA E5 Ankeny, IA**

Ankeny Regional Airport, IA
(Lat. 41°41′29″ N., long. 93°33′59″ W.)
COSED Waypoint
(Lat. 41°46′40″ N., long. 93°33′59″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ankeny Regional Airport, and within 2 miles each side of the 045° bearing from the airport extending from the 7-mile radius to 8.9 miles northeast of the airport, and within 2 miles each side of the 015° bearing from COSED waypoint to 5.8 miles northeast of the waypoint, excluding that portion within the Des Moines, IA Class C and E airspace areas.

* * * * *

Issued in Kansas City, MO, on September 7, 2001.

**Richard L. Day,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 01–23780 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[CGD09–01–129]**

**RIN 2115–AA97**

## Security Zone; Selfridge Air National Guard Base, MI

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a security zone. The security zone has been implemented in Lake St. Clair in the vicinity of Selfridge Air National Guard Base in Michigan. The zone extends one half mile from shore, between the Hall Road launch ramp and the entrance to Mac and Rays Marina, where Coast Guard vessels will be patrolling. The security zone is needed to protect the Selfridge area from terrorist threats.

**DATES:** This final rule becomes effective at 2 p.m. on September 11, 2001.

**ADDRESSES:** You may mail comments to the Captain of the Port, Detroit, Michigan, or deliver them to the Coast Guard Marine Safety Office, 110 Mt. Elliott Ave, Detroit, Michigan. The telephone number is (313) 568–9580. Marine Safety Office, Detroit maintains the public docket. Comments and documents as indicated in this preamble will be available for inspection or copying between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** ENS Brandon Sullivan, U.S. Coast Guard Marine Safety Office, 110 Mt. Elliott Ave, Detroit, Michigan 48207. The telephone number is (313) 568–9580.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after publication in the **Federal Register**. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to ensure the public safety from terrorist activity.

**Background and Purpose**

Due to recent terrorist attacks the Captain of the Port Detroit has deemed this security zone appropriate to ensure public safety. Entry into, transit through or anchoring within this security zone is prohibited unless authorized by the Captain of the Port, Detroit or his on scene representative which may be contacted on VHF Channel 16.

**Regulatory Evaluation**

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

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) the Coast Guard considered whether this rule will have a significant impact on a substantial number of small businesses and not-for-profit organizations that are not dominant in their respective fields, and governmental jurisdictions with populations less than 50,000. For the same reasons set forth in the above regulatory evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

**Assistance for Small Entities**

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effectiveness and participate in the rulemaking process. If your small business or organization is affected by this rule, and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble.

**Collection of Information**

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

**Federalism**

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Environment**

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

**Indian Tribal Governments**

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

**Energy Effects**

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

**List of Subjects in 33 CFR Part 165**

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

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

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

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

2. A new § 165.T09–998 is added to read as follows:

**§ 165.T09–998 Security Zone: Selfridge Army National Guard Base, Michigan.**

(a) *Location.* The following area is a Security Zone: The waters off Selfridge Army National Guard Base in Michigan one half mile from shore between the Hall Road Launch Ramp and the entrance to Mac and Rays Marina.

(b) *Effective dates.* This section becomes effective at 2 p.m. September 11, 2001.

(c) *Regulations.*

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

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed. Coast Guard Auxiliary and local or state officials may be present to inform vessel operators of this regulation and other applicable laws.

(3) Commercial vessels may request permission to transit the safety zone from the Captain of the Port Detroit. Approval in such cases will be case by case. Request must be made in advance to and approved by the Captain of the Port before such transits will be authorized.

Dated: September 11, 2001.

**P.G. Gerrity,**

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

[FR Doc. 01–23712 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–15–U

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[TX–104–1–7401a; FRL–7063–2]**

## Approval and Promulgation of Implementation Plans; Texas; Revisions to General Rules and Regulations for Control of Air Pollution by Permits for New Sources and Modifications

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action to approve revisions of the Texas State Implementation Plan (SIP). Specifically, EPA is approving revisions to regulations of the Texas Natural Resource Conservation Commission (TNRCC) which relate to definitions in Texas' general rules and to regulations relating to the permitting of new sources and modifications. The revisions that EPA is approving in this action are to recodify several provisions of the existing SIP without substantive changes and approve provisions for permit alterations which will strengthen the SIP as it pertains to the permitting of new and modified sources. Approval of these revisions will bring the federally approved SIP, which pertains to the permitting of new and modified sources more closely in line with the Texas' existing program. This action will better serve the State, the public, and the regulated community by making the approved SIP more closely match the rules that Texas currently implements. The approval of these revisions is independent of, and will not adversely affect, other SIP actions that EPA and TNRCC are currently undertaking to ensure the attainment and maintenance of air quality in the Dallas-Fort Worth, Houston-Galveston, and Beaumont-Port Arthur regions of Texas. Except where otherwise noted, EPA is approving revisions which Texas submitted in 1998 to the extent that they are equivalent to revisions that Texas previously submitted in 1993. Where noted, EPA is acting on provisions which Texas submitted in 1993. Finally,

EPA is taking no action on certain provisions which relate to emissions reduction credits and offsets, permit exemptions, permit renewals, and emergency orders, which are not in the current SIP and for reasons discussed in the Supplementary Information.

**DATES:** This rule is effective on November 23, 2001 without further notice, unless EPA receives adverse comment by October 24, 2001. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Please address written comments on this action to Ms. Jole C. Luehrs, Chief, Air Permits Section, Attention: Stanley M. Spruiell, at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

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

TNRCC, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753

**FOR FURTHER INFORMATION CONTACT:** Stanley M. Spruiell of the Air Permits Section at (214) 665–7212, or at *spruiell.stanley@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' or ''our'' means EPA. Please note that if we receive adverse comment(s) on an amendment, paragraph, or section of this rule and if that provision is independent of the remainder of the rule, we may adopt those provisions of the rule that are not the subject to the adverse comment.

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## I. What Action Are We Taking?

In today's action, we are approving into the SIP revisions of 30 Texas Administrative Code (TAC), Chapter 101, ''General Rules'' and Chapter 116, ''Control of Air Pollution by Permits for New Construction or Modification.'' The Governor of Texas submitted the following revisions to Chapters 101 and 116 to the Administrator of EPA after adequate notice and public hearing:

A. On August 31, 1993 (the ''1993 submittal''). The 1993 submittal includes revisions adopted by Texas on August 16, 1993. It revises Chapters 101 and 116. Specifically, the 1993 submittal includes the following:

- Revisions to the General Rules in 30 TAC Chapter 101, section 101.1—Definitions.
- Revisions to and recodification of Chapter 116. The 1993 submittal serves as the base regulation for subsequent revisions that TNRCC has adopted, or will adopt.

B. July 22, 1998 (the ''1998 submittal''). This submittal includes revisions adopted by TNRCC on June 17, 1998. It includes the following:

- Provisions for implementing section 112(g) of the Act, and includes a new section 116.15—section 112(g) definitions, and a new subchapter C—Hazardous Air Pollutants: Regulations Governing Construction or Reconstruction Major Sources (Federal Clean Air Act (FCAA), section 112(g), 40 CFR part 63). We are taking no action on subchapter C.
- Changes which TNRCC made under its regulatory reform to simplify and clarify its rules. These changes which do not involve substantive changes include: (1) Using shorter sentences, (2) limiting each citation to one main concept, (3) reordering requirements into a more logical sequence, and (4) using more commonplace terminology.[1]

In today's action, we are approving the revisions to Chapter 116 as revisions to the Texas SIP as described herein.

We have prepared a Technical Support Document (TSD) which contains a detailed analysis of our evaluation of this action. The TSD is included as part of the public docket and is available at the addresses listed above.

## II. What Actions Are We Taking on Chapter 101?

The 1993 submittal included revisions to Chapter 101, section 101.1 (Definitions). Texas revised the definition of the term ''nonattainment area.'' Texas also removed several terms which relate to permitting major sources and major modifications in nonattainment areas, and simultaneously recodified those definitions into section 116.12.[2]

Table 1 below summarizes our evaluation of each definition in section 101.1 that we are approving in today's action.

TABLE 1.—SUMMARY OF EVALUATION OF THE DEFINITIONS IN SECTION 101.1

| Regulation | Title/(subject) | Comments |
|---|---|---|
| 101.1 | General Definitions (Introductory paragraph) | a |
| 101.1 | —Nonattainment area | b |
| 101.1 | —De minimis impact | c |

a—No substantive changes to approved provision. This provision continues to meet the Act.
b—Revised definition. We have determined that the revised definition is consistent with the Act.
c—Reinstatement of definition inadvertently deleted from the approved SIP on August 19, 1997 (62 **Federal Register** 44083).

The submitted definition of ''nonattainment area'' is different from the definition submitted May 13, 1992, which EPA approved September 27, 1995 (60 FR 49781). The TNRCC reworded the definition to avoid using the defined word ''nonattainment'' within the definition. As submitted, TNRCC now defines ''nonattainment area'' as a region within the State which EPA has designated, under section 107(d) of the Clean Air Act (the ''Act''),

[1] The 1998 submittal also includes provisions which TNRCC adopted subsequent to the 1993 submittal but not yet approved by EPA. Except where otherwise indicated, we are taking no action on revisions made after the 1993 submittal which are not substantially equivalent to the 1993 submittal until we complete our review of these subsequent revisions.

[2] We approved the nonattainment definitions in section 116.12 and the removal of such terms from section 101.1 in a separate action at 65 FR 43986 (July 17, 2000).

as failing to meet a national ambient air quality standard for a pollutant for which a standard exists. The revised definition continues to be substantially equivalent to the definition of ''nonattainment area'' as defined in section 171(2) of the Act.

The 1993 submittal also includes the definition of ''*de minimis* impact'' in section 116.10. Texas repealed the definition from section 116.10 in the 1998 submittal. In a separate action, we approved this definition in section 116.10 as submitted in 1993 at 62 FR 44083 (August 19, 1997). In that action, we inadvertently removed the same definition from section 101.1. Subsequently, we discovered that Texas had retained the term ''*de minimis* impact'' in section 101.1. By this action, we are reinstating the definition of ''de minimis impact'' into section 101.1 as approved at 56 FR 46117 (September 10, 1991) and approving the repeal of the same definition from section 116.10 which Texas submitted in the 1998 submittal.

## III. Why Are We Approving the Revisions to Chapter 116?

Approval of these revisions to Chapter 116 will bring the federally approved SIP for Chapter 116 more closely in line with the Chapter as it currently exists in the State's program. Our approval of these revisions will also facilitate future revisions to Chapter 116, by enabling us to approve them into the current organizational structure. This approval also better serves the State, the public, and the regulated community by making the approved SIP more closely match the rules that Texas currently implements.

As revised August 16, 1993, and June 17, 1998, Chapter 116 is organized as indicated in Table 2 below:

TABLE 2.—ORGANIZATION OF CHAPTER 116 [a]

| Citation | Title |
|---|---|
| Subchapter A | Definitions. |
| Subchapter B | New Source Review Permits. |
| Division 1 | Permit Application. |
| Division 2 | Compliance History. |
| Division 3 | Public Notification and Comment Procedures. |
| Division 4 | Permit Fees. |
| Division 5 | Nonattainment Review. |
| Division 6 | Prevention of Significant Deterioration Review. |
| Division 7 | Emission Reductions: Offsets. |
| Subchapter C [b] | Permit Exemptions. |
| Subchapter D [b] | Permit Renewals. |
| Subchapter E [b] | Emergency Orders. |

[a] This organization of Chapter 116 is the organization that Texas has submitted. As will be discussed herein, we are not acting on all provisions that Texas has submitted.
[b] The EPA is taking no action on subchapters C and E in today's action.

## IV. Have We Approved Any Portions of the 1993 Submittal Prior to Today's Action?

We previously approved portions of the 1993 submittal in separate actions as indicated in Table 3 below.

TABLE 3.—PROVISIONS OF AUGUST 31, 1993, SUBMITTAL OF CHAPTER 116, PREVIOUSLY APPROVED BY EPA

| State citation | Title | Federal Register (FR) publication date and page No. |
|---|---|---|
| **Subchapter A—Definitions** | | |
| Section 116.10 | General Definitions | 62 FR 44083 (August 19, 1997) |
| Section 116.12 | Nonattainment Review Definitions | 60 FR 49781 (September 27, 1995) and 65 FR 43986 (July 17, 2000). |
| **Subchapter B—New Source Review Permits Division 4—Permit Fees** | | |
| Section 116.141, Subsections (a), and (c)–(e) | Determination of Fees | 62 FR 44083 (August 19, 1997). |
| **Division 5—Nonattainment Review** | | |
| Section 116.150 | New Major Source or Major Modification in Ozone Nonattainment Area. | 65 FR 43986 (July 17, 2000). |
| Section 116.151 | New Major Source or Modification in Nonattainment Area Other than Ozone. | 65 FR 43986 (July 17, 2000). |
| **Division 6—Prevention of Significant Deterioration Review** | | |
| Section 116.160 | Prevention of Significant Deterioration Review Requirements. | 62 FR 44083 (August 19, 1997). |
| Section 116.161 | Source Located in an Attainment Area with Greater than De Minimis Impact. | 62 FR 44083 (August 19, 1997). |
| Section 116.162 | Evaluation of Air Quality Impacts | 62 FR 44083 (August 19, 1997). |
| Section 116.163 | Prevention of Significant Deterioration Permits Fees. | 62 FR 44083 (August 19, 1997). |

TABLE 3.—PROVISIONS OF AUGUST 31, 1993, SUBMITTAL OF CHAPTER 116, PREVIOUSLY APPROVED BY EPA—Continued

| State citation | Title | Federal Register (FR) publication date and page No. |
|---|---|---|
| **Division 7—Emission reduction: Offsets** | | |
| Section 116.170, and Subsections (1) and (3) .. | Applicability of Reduction Credits ..... | 65 FR 43986 (July 17, 2000). |

With respect to the sections identified in Table 3 above, today's action approves the codification of these provisions into the organization structure adopted in 1998 submittal and any nonsubstantive changes to the previously approved provisions.

## V. Are We Approving All Provisions of Chapter 116?

No. We are taking no action on the provisions of Chapter 116 identified in Table 4 below.

TABLE 4.—PROVISIONS OF CHAPTER 116 FOR WHICH EPA IS TAKING NO ACTION

| Citation of Chapter 116 [a] | Title/subject | Reason for taking no action |
|---|---|---|
| **Subchapter A—Definitions** | | |
| Section 116.10 (1993 submittal) ..... | General Definitions Definitions of ''de minimis impact'' and ''emissions unit'' ..... | b |
| Section 116.10(1) ..... | Definition of ''actual emissions'' ..... | c |
| Section 116.10(2) ..... | Definition of ''allowable emissions'' ..... | c |
| Section 116.10(3) ..... | Definition of ''best available control technology'' ..... | c |
| Section 116.10(4) ..... | Definition of ''facility'' ..... | c |
| Section 116.10(6) ..... | Definition of ''grandfathered facility'' ..... | c |
| Section 116.10(8) ..... | Definition of ''maximum allowable emission rate table (MAERT)'' ..... | c |
| Section 116.10(9) ..... | Definition of ''modification of existing facility'' ..... | c |
| Section 116.10(10) ..... | Definition of ''new facility'' ..... | c |
| Section 116.10(14) ..... | Definition of ''qualified facility'' ..... | c |
| Section 116.13 ..... | Flexible Permit Definitions ..... | c |
| Section 116.14 ..... | Standard Permit Definitions ..... | c |
| Section 116.15 ..... | Section 112(g) Definitions ..... | d |
| **Subchapter B—New Source Review Permits Division 1—Permit Application** | | |
| Section 116.110(a)(2) ..... | New Source Review (NSR) permit not required if source satisfies condition for standard permit. | c |
| Section 116.110(a)(3) ..... | (NSR) permit not required if source satisfies condition for flexible permit ..... | c |
| Section 116.110(b) (1993 submittal) ..... | Operations Certificate (repealed from Section 116.110 in 1998 submittal) ..... | b |
| Section 116.110(c) ..... | Exclusions from permitting ..... | c |
| Section 116.111(2)(K) ..... | Hazardous Air Pollutants ..... | d |
| Section 116.115(b) ..... | General Conditions ..... | c |
| Section 116.115(c)(2)(A)(i) ..... | Special conditions for sources subject to standard permits ..... | c |
| Section 116.115(c)(2)(B)(ii)(I) ..... | Special conditions for sources subject to Subchapter C (Hazardous Air Pollutants) | d |
| Section 116.116(b)(3) ..... | Changes at Section 112(g) facilities ..... | d |
| Section 116.116(e) ..... | Changes to qualified facilities ..... | c |
| Section 116.116(f) ..... | Use of credits ..... | c |
| Section 116.117 ..... | Documentation and Notification of Changes to Qualified Facilities ..... | c |
| Section 116.118 ..... | Pre-Change Qualification ..... | c |
| **Division 3—Public Notice** | | |
| Section 116.130(c) ..... | Applications subject to the requirements of Subchapter C of Chapter 116 (relating to Hazardous Air Pollutants). | d |
| Section 116.132(c) ..... | Additional alternate language public notice ..... | c |
| Section 116.132(d) ..... | Exemptions from alternate language notification ..... | c |
| Section 116.133(f) ..... | Alternate language sign posting ..... | c |
| Section 116.133(g) ..... | Exemptions from alternate language sign posting ..... | c |
| Section 136 ..... | Public Comment Procedures ..... | c |
| **Division 7—Emission Reductions: Offsets** | | |
| Section 116.170(2) ..... | Applicability for Reduction Credits ..... | e |
| Section 116.174 ..... | Determination by the Executive Director to Authorize Reductions ..... | e |
| Section 116.175 ..... | Recordkeeping ..... | e |
| **Subchapter C—Permit Exemptions (1993 submittal)** ..... | | f |
| **Subchapter C—Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, section 112(g), 40 CFR part 63)**. | | d |

| | |
|---|---|
| **Subchapter D—Permit Renewals** | g |
| **Subchapter E—Emergency Orders** | h |
| **Subchapter F—Standard Permits** | c |
| **Subchapter G—Flexible Permits** | c |

a Except where otherwise noted, this refers to a provision contained in the 1998 submittal.
b Provisions repealed from Chapter 116 in the 1998 submittal.
c Not equivalent to 1993 submittal. See discussion in section VI.A of this preamble.
d Implementation of section 112(g) is carried out separately from the SIP activities. See discussion in section VI.B of this preamble.
e As described in section VI.C of this preamble.
f As described in section VI.D of this preamble.
g As described in section VI.E of this preamble.
h As described in section VI.F of this preamble.

## VI. Why Are We Taking No Action on the Provisions Identified Above?

### *A. General Comments*

As mentioned above, we are approving the 1998 submittal to the extent that it is equivalent to the 1993 submittal. The 1998 submittal includes new provisions as well as numerous changes that the TNRCC adopted subsequent to the 1993 submittal and carried forward into the 1998 submittal. We are still reviewing the new provisions and the provisions carried forward from rulemaking actions adopted subsequent to the 1993 submittal. However, if we wait until we complete our review and evaluation of these provisions, we would have to delay action on the portions of the 1998 submittal that we consider to be approvable. As stated above, we believe that it is important to act on the provisions of the 1998 submittal that are consistent with the 1993 submittal to ensure that the approved SIP more closely matches the rules that the TNRCC administers and enforces.

Accordingly, today's action approves the 1998 submittal to the extent that the 1998 submittal is equivalent to the provisions of the 1993 submittal that we are approving. We are taking no action on the provisions of the 1998 submittal that are not equivalent to the 1993 submittal, except where otherwise indicated.[3]

We are reviewing the provisions which we are not acting upon today. When we complete our review, we will take appropriate action on these provision in separate **Federal Register** actions. The TSD contains a detailed evaluation which documents why we are taking no action on these provisions.

[3] In some cases provisions of the 1998 submittal are readily recognized to be consistent with the Act and have the effect of strengthening the SIP even though they are not equivalent to the 1993 submittal. These provisions are identified in the TSD and where identified are being approved in today's action.

### *B. Provisions Implementing Section 112(g) of the Act Concerning Constructed or Reconstructed Major Sources of Hazardous Air Pollutants (HAP)*

We are taking no action on subchapter C of Chapter 116—Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, section 112(g), 40 CFR part 63), as submitted with the 1998 submittal. The program for reviewing and permitting constructed and reconstructed major sources of HAP is regulated under section 112 of the Act and under 40 CFR part 63, subpart B. Under these provisions, States establish case-by-case determinations of maximum achievable control technology for new and reconstructed major sources of HAP. The process for these provisions is carried out separately from the SIP activities. We are thus taking no action on subchapter C of Chapter 116 in today's action.

### *C. Emission Reductions: Offsets*

In letters to TNRCC dated August 3, 1999, and September 27, 2000, we informed TNRCC that we had concerns relating to the approval of sections 116.170(2), 116.174, and 116.175.

On the basis of subsequent discussions with TNRCC on August 15, 2000, EPA and TNRCC have agreed that it is appropriate to take no action on sections 116.170(2), 116.174, and 116.175 in today's direct final approval. Our letter to TNRCC on September 27, 2000, confirmed this understanding. We will act on these provisions in a separate action after TNRCC resolves the outstanding concerns to our satisfaction. Additional information regarding our concerns with these provisions is contained in the TSD.

### *D. Permit Exemptions*

On December 29, 1998, TNRCC requested that we delay action on approving subchapter C—Permit Exemptions as submitted in 1993. In a subsequent letter dated April 26, 1999, TNRCC provided its reason for requesting us to delay approval of subchapter C. Texas requested the delay because of several bills that were before the Texas Legislature which, if passed and signed into law, would affect the new source permitting structure, including the exemptions from permitting. These bills were passed and signed into law. The TNRCC is currently in the process of developing regulations to implement the new permitting structure which includes changes to the exemptions from permitting. Because we anticipate that Texas will significantly revise and restructure its provisions for exemptions from permitting and subsequently submit the changes to us as SIP revisions, we will delay action on subchapter C (as submitted in 1993) pending the submission of these SIP revisions.

Because we are taking no action on subchapter C as submitted in 1993, the following TNRCC regulation remains in the Texas SIP: section 116.6 (Exemptions) as approved by EPA on August 13, 1982 (47 FR 35193).

### *E. Permit Renewals*

The governor submitted subchapter D (Permit Renewals) of Chapter 116 in the 1993 submittal. However, the 1998 submittal incorporates revisions that Texas adopted after the 1993 submittal and which we have not approved. The changes significantly revise subchapter D to the extent that it is not equivalent to subchapter D as submitted in the 1993 submittal. We have not completed our review of these changes and are therefore taking no action on subchapter D in today's action. We will act on subchapter D in a separate action following our review of the changes adopted subsequent to the 1993 submittal.

### *F. Emergency Orders*

The Governor submitted subchapter E (Emergency Orders) as part of the 1993 submittal. An emergency order authorizes the immediate action for the addition, replacement, or repair of facilities or control equipment, and authorizes the associated emissions of air contaminants, whenever a catastrophic event necessitates such construction. An applicant that qualifies

for an emergency order would need to submit an application under the requirements of section 116.411.

On December 10, 1998, the Governor of Texas submitted SIP revisions pertaining to Emergency Orders. In that submittal, Texas recodified and revised the provisions pertaining to Emergency Orders into 30 TAC chapter 35. We are still reviewing the December 10, 1998, SIP revisions. We will act on the provisions relating to Emergency Orders in a separate action.

In letters to TNRCC dated August 3, 1999, and September 27, 2000, we identified concerns related to subchapter E, submitted August 31, 1993, and with the revisions submitted December 10, 1998.

To date, TNRCC has not addressed our concerns. On the basis of subsequent discussions with TNRCC on August 15, 2000, the EPA and TNRCC have agreed that it is appropriate to take no action on subchapter E, submitted August 31, 1993, and the SIP revisions submitted December 10, 1998, in today's direct final approval. Our letter to TNRCC on September 27, 2000, confirmed this understanding. We will act on these provisions in a separate action after TNRCC resolves the outstanding concerns to our satisfaction. Additional information regarding our concerns with these provisions is contained in the TSD.

## VII. Are We Approving Provisions That Did Not Exist in the Former SIP?

We are approving subsection (c) in section 116.116. This subsection sets forth provisions for permit alterations. This subsection defines a permit alteration as a variation to a representation in a permit application or in a general or special condition of a permit that decreases the allowable emissions or does not change the character or method of control of emissions. The TNRCC must approve any request for permit alteration which may result in an increase in off-property concentrations of air contaminants, may involve a change in permit conditions, or may affect facility or control equipment performance. Changes subject to permit alterations are non-substantive and involve no emissions increase. Alterations only apply to nonsubstantive changes to a permitted emission unit. Like kind replacement of emissions units and new emission units are not allowed under the permit alteration provisions. Permit alterations are not granted for changes which qualify for permit amendments under section 116.116(b). Such permit amendment is required for any change which involves an increase in emissions or a change in the method of control. Examples of changes eligible for permit alterations include: (1) Changes to a special condition in a permit to add an annual production rate for a unit that was inadvertently left out, (2) revising an emission point to show fugitive emissions and emissions from a newly installed control device as two separate emission points, and (3) changes to a special condition to reflect that primary seals for external floating roof tanks may be liquid-mounted primary seals or mechanical shoes. The use of alterations is limited only to changes which involve no increase in emissions and no changes in the method of control. Accordingly, such changes will not result in a violation of the applicable portion of the control strategy [4] or interfere with attainment or maintenance of a national standard, thus meeting the requirements of 40 CFR 51.160.[5] Subsection (c) as submitted in 1998 is equivalent to the 1993 submittal.

## VIII. What Is the Effect of Today's Action?

This action approves the recodification of several provisions of Texas regulations for permitting new and modified sources as submitted August 31, 1993. Today's action replaces several outdated Sections of the former SIP and with new Sections under the current numbering system used for Chapter 116. By approving these revisions, the SIP-approved version of Chapter 116 more closely correlates with the numbering system currently used by Texas.

## IX. What Texas SIP Regulations Are Being Replaced by This Action?

Table 5 below cross-references the provisions that we are approving to the corresponding provisions in the former SIP. Table 5 identifies the new SIP citation, the former SIP citation, the adoption date of the section that we are approving, the title of the Section, and any explanatory notes. Where noted, the ''explanation'' column may identify the portions of the ''New SIP Citation'' which we are not approving in today's action. The reasons for not approving such provisions, as identified in the ''explanation'' column, are provided in section VI of this preamble.

TABLE 5.—PROVISIONS OF 30 TAC THAT WE ARE APPROVING INTO TEXAS' SIP

| New SIP citation | Former SIP citation | Dated adopted by State | Title | Explanation |
|---|---|---|---|---|
| **Chapter 101—General Rules** | | | | |
| Section 101.1 | Same | 08/16/93 | Definitions | This action approves the revised definition of ''non-attainment area'' and reinstates the definition of ''*de minimis* impact.'' |
| **Chapter 116—Control of Air Pollution by Permits for New Construction or Modification Subchapter A—Definitions** | | | | |
| Section 116.10 | Sections 101.1, 116.3(a)(1)(B), and 116.14(a)(7). | 06/17/98 | General Definitions | The New SIP Citation does not include Sections 116.10(1), (2), (3), (4), (6), (8), (9), (10), and (14). |

[4] The term ''control strategy'' is defined in 40 CFR 51.100(n) as a combination of measures designated to achieve the aggregate emission reductions necessary for attainment and maintenance of national ambient air quality standards.

[5] 40 CFR 51.160 requires each SIP to contain legally enforceable measures that enable the State to determine whether the construction or modification of a facility, building, structure, or installation, or combination thereof will result in: (1) A violation of applicable portions of the control strategy; or (2) interference with attainment of maintenance of a national standard in the State in which the proposed source (or modification) is located or in a neighboring State.

TABLE 5.—PROVISIONS OF 30 TAC THAT WE ARE APPROVING INTO TEXAS' SIP—Continued

| New SIP citation | Former SIP citation | Dated adopted by State | Title | Explanation |
|---|---|---|---|---|
| Section 116.11 | Section 116.14(a)(1)(6) | 06/17/98 | Compliance History Definitions. | |
| **Subchapter B—New Source Review Permits Division 1—Permit Application** | | | | |
| Section 116.110 | Sections 116.1(a)–(c), 116.2, and 116.3(b). | 06/17/98 | Applicability | The New SIP Citation does not include Sections 116.110(a)(2), (a)(3), and (c). |
| Section 116.111 | Section 116.3(a) | 06/17/98 | General Application | The New SIP Citation does not include Section 116.111(2)(K). |
| Section 116.112 | Sections 116.3(a)(1)(B) and 116.3(a)(13). | 06/17/98 | Distance Limitations. | |
| Section 116.114 | Sections 116.3(f), 116.5, 116.10(a)(1), and 116.10(e). | 06/17/98 | Application Review Schedule. | |
| Section 116.115 | Section 116.4 | 06/17/98 | Special Provisions | The New SIP Citation does not include Sections 116.115(b), (c)(2)(A)(i), and (c)(2)(B)(ii)(I). |
| Section 116.116 | Section 116.5 | 06/17/98 | Changes to Facilities | The New SIP Citation does not inlcude Sections 116.116(b)(3), (e), and (f). |
| **Division 2—Compliance History** | | | | |
| Section 116.120 | Section 116.14(b) | 06/17/98 | Applicability. | |
| Section 116.121 | Section 116.14(c) | 06/17/98 | Exemptions. | |
| Section 116.122 | Section 116.14(d) | 06/17/98 | Contents of Compliance History. | |
| Section 116.123 | Section 116.14(e) | 06/17/98 | Effective Dates. | |
| Section 116.124 | Section 116.14(f) | 06/17/98 | Public Notice of Compliance History. | |
| Section 116.125 | Section 116.14(g) | 06/17/98 | Preservation of Existing Rights and Procedures. | |
| Section 116.126 | Section 116.14(h) | 06/17/98 | Voidance of Permit Applications. | |
| **Division 3—Public Notice** | | | | |
| Section 116.130 | Section 116.10(a)(7) | 06/17/98 | Applicability | The New SIP Citation does not include Section 116.130(c). |
| Section 116.131 | Section 116.10(a)(1) and (2) | 06/17/98 | Public Notification. | |
| Section 116.132 | Section 116.10(a)(3) and (4) | 06/17/98 | Public Notice Format | The New SIP Citation does not include Sections 116.132(c) and (d). |
| Section 116.133 | Did not exist | 06/17/98 | Sign Posting Requirements | The New SIP Citation does not include Sections 116.134(f) and (g). |
| Section 116.134 | Section 116.10(a)(5) | 06/17/98 | Notification of Affected Agencies. | |
| Section 116.136 | Section 116.10(b) | 08/16/93 | Public Comment Procedures. | |
| Section 116.137 | Section 116.10(c) | 06/16/93 | Notification of Final Action by the Commission. | |
| **Division 4—Permit Fees** | | | | |
| Section 116.140 | Section 116.11(a) and (e) | 06/17/98 | Applicability. | |
| Section 116.141 | Section 116.11(b) | 06/17/98 | Determination of Fees | Sections 116.141(a), (c)–(e) previously approved. Today's action approves Section 116.143(b) and changes to Section 116.141 of the 1998 submittal. |
| Section 116.143 | Section 116.11(c)–(f) | 06/17/98 | Payment of Fees. | |

TABLE 5.—PROVISIONS OF 30 TAC THAT WE ARE APPROVING INTO TEXAS' SIP—Continued

| New SIP citation | Former SIP citation | Dated adopted by State | Title | Explanation |
|---|---|---|---|---|
| **Division 5—Nonattainment Review** | | | | |
| Section 116.150 | Section 116.150 | 02/24/99 | New Major Source or Major Modification in Ozone Nonattainment Area. | Previously approved. No changes in 1998 submittal. Today's action approves incorporation into Division 5. |
| Section 116.151 | Section 116.151 | 03/18/98 | New Major Source or Major Modification in Nonattainment Area Other than Ozone. | |
| **Division 6—Prevention of Significant Deterioration Review** | | | | |
| Section 116.160 | Section 116.160 | 06/17/98 | Prevention of Significant Deterioration Requirements. | Previously approved. Today's action approves changes in Sections 116.160 and 116.161 of the 1998 submital. |
| Section 116.161 | Section 116.161 | 06/17/98 | Sources Located in an Attainment Area with a Greater than *de Minimis* Impact. | |
| Section 116.162 | Section 116.162 | 08/16/93 | Evaluation of Air Quality Impacts. | Previously approved. No changes in 1998 submittal. Today's action approves incorporation into Division 6. |
| Section 116.163 | Section 116.163 | 08/16/93 | Prevention of Significant Deterioration Permits Fees. | |
| **Division 7—Emission Reduction: Offsets** | | | | |
| Section 116.170 | Section 116.170 | 06/17/98 | Applicability of Reduction Credits. | Previously approved. Today's action approves changes in 1998 submitted. The New SIP Citation does not include Section 116.170(2). |

## X. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have 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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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. 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 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 12, 2001.

**Gregg A. Cooke,**

*Regional Administrator, Region 6.*

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

## PART 52—[AMENDED]

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

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

## Subpart SS—Texas

2. In § 52.2270 the table in paragraph (c) is amended as follows:

a. Under Chapter 101, revising the entry for Section 101.1;

b. Under Chapter 116, deleting all existing entries and replacing with new entries as shown below:

**§ 52.2270 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

| State citation | Title/subject | State submittal/approval date | EPA approval date | Explanation |
|---|---|---|---|---|
| **Chapter 101—General Rules** | | | | |
| Section 101.1 | Definitions | 06/29/2000 | 9/24/01 | Ref 52.2299(c)(102). Notes:<br>1. On 7/17/2000 EPA approved removal of Nonattainment review definitions from 101.1 and addition to Chapter 116, Section 116.12;<br>2. On 11/28/2000 EPA approved definitions of ''Reportable Quantity'' and ''Reportable Upset;''<br>3. Last action EPA approved revised definition of ''nonattainment area'' and reinstatement of definition of ''*de minimis* impact.'' |
| * | * | * | * | * * * |
| **Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification** | | | | |
| Section 116.6 | Exemptions | 03/27/75 | 08/13/82, 47 FR 35194. | |
| **Subchapter A—Definitions** | | | | |
| Section 116.10 | General Definitions | 06/17/98 | 9/24/01 | The SIP does not include Sections 116.10(1), (2), (3), (4), (6), (8), (9), (10), and (14). |
| Section 116.11 | Compliance History Definitions. | 06/17/98 | 9/24/01. | |
| Section 116.12 | Nonattainment Review Definitions. | 02/24/99 | 07/17/00, 65 FR 43994. | |
| **Subchapter B—New Source Review Permits Division 1: Permit Application** | | | | |
| Section 116.110 | Applicability | 06/17/98 | 9/24/01 | The SIP 116.110 does not include Sections 116.110(a)(2), (a)(3), and (c). |
| Section 116.111 | General Application | 06/17/98 | 9/24/01 | The SIP does not include Section 116.111(2)(K). |
| Section 116.112 | Distance Limitations | 06/17/98 | 9/24/01. | |
| Section 116.114 | Application Review Schedule. | 06/17/98 | 9/24/01. | |

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

| State citation | Title/subject | State submittal/approval date | EPA approval date | Explanation |
|---|---|---|---|---|
| Schedule 116.115 | Special Provisions | 06/17/98 | 9/24/01 | The SIP does not include Sections 116.115(b), (c)(2)(A)(i), and (c)(2)(B)(ii)(I). |
| Section 116.116 | Amendments and Alterations. | 06/17/98 | 9/24/01 | The SIP does not include Sections 116.115(b)(3), number] (e), and (f). |
| **Division 2: Compliance History** | | | | |
| Section 116.120 | Applicability | 06/17/98 | 9/24/01. | |
| Section 116.121 | Exemptions | 06/17/98 | 9/24/01. | |
| Section 116.122 | Contents of Compliance History. | 06/17/98 | 9/24/01. | |
| Section 116.123 | Effective Dates | 06/17/98 | 9/24/01. | |
| Section 116.124 | Public Notice of Compliance History. | 06/17/98 | 9/24/01. | |
| Section 116.125 | Preservation of Existing Rights and Procedures. | 06/17/98 | 9/24/01. | |
| Section 116.126 | Voidance of Permit Applications. | 06/17/98 | 9/24/01. | |
| **Division 3: Public Notice** | | | | |
| Section 116.130 | Applicability | 06/17/98 | 9/24/01 | The SIP does not include Section 116.130(c). |
| Section 116.131 | Public Notification Requirements. | 06/17/98 | 9/24/01. | |
| Section 116.132 | Public Notice Format | 06/17/98 | 9/24/01 | The SIP does not include Sections 116.132(c) and (d). |
| Section 116.133 | Sign Posting Requirements | 06/17/98 | 9/24/01 | The SIP does not include Sections 116.133(f) and (g). |
| Section 116.134 | Notification of Affected Agencies. | 06/17/98 | 9/24/01. | |
| Section 116.136 | Public Comment Procedures. | 08/16/93 | 9/24/01. | |
| Section 116.137 | Notification of Final Action by the Commission. | 08/16/93 | 9/24/01. | |
| **Division 4: Permit Fees** | | | | |
| Section 116.140 | Applicability | 06/17/98 | 9/24/01. | |
| Section 116.141 | Determination of Fees | 06/17/98 | 9/24/01. | |
| Section 116.143 | Payment of Fees | 06/17/98 | 9/24/01. | |
| **Division 5: Nonattainment Review** | | | | |
| Section 116.150 | New Major Source or Major Modification in Ozone Nonattainment Area. | 02/24/99 | 07/17/00, 65 FR 43986. | |
| Section 116.151 | New Major Source or Major Modification in Nonattainment Area Other than Ozone. | 03/18/98 | 07/17/00, 65 FR 43986. | |
| **Division 6: Prevention of Significant Deterioration Review** | | | | |
| Section 116.160 | Prevention of Significant Deterioration Review Requirements. | 06/17/98 | 9/24/01. | |
| Section 116.161 | Source Located in an Attainment Area with Greater than De Minimis Impact. | 06/17/98 | 9/24/01. | |
| Section 116.162 | Evaluation of Air Quality Impacts. | 08/16/93 | 08/19/97, 62 FR 44083. | |
| Section 116.163 | Prevention of Significant Deterioration Permit Fees. | 08/16/93 | 08/19/97, 62 FR 44083. | |

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

| State citation | Title/subject | State submittal/approval date | EPA approval date | Explanation |
|---|---|---|---|---|
| **Division 7: Emission Reductions: Offsets** | | | | |
| Section 116.170 | Applicability of Reduction Credits. | 06/17/98 | 9/24/01 | The SIP does not include Section 116.170(2). |
| * | * * | * | * | * * |

[FR Doc. 01–23624 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[PA–4127a; FRL–7060–3]**

## Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and $NO_X$ RACT Determinations for Eight 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 eight 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 13, 2001 (66 FR 42418), EPA stated that if it received adverse comment by September 12, 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 13, 2001 (66 FR 42487). EPA will not institute a second comment period on this action.

**DATES:** The Direct final rule is withdrawn as of September 24, 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)(164) is withdrawn as of September 24, 2001.

[FR Doc. 01–23759 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[PA–4137a; FRL–7060–4]**

## Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC 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 an 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) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 13, 2001 (66 FR 42415), EPA stated that if it received adverse comment by September 12, 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 13, 2001 (66 FR 42487). EPA will not institute a second comment period on this action.

**DATES:** The Direct final rule is withdrawn as of September 24, 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)(171) is withdrawn as of September 24, 2001.

[FR Doc. 01–23760 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 70

**[AD–FRL–7064–1]**

## Clean Air Act Final Approval of Operating Permits Program; State of New Hampshire

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking final action to fully approve the Clean Air Act Operating Permits Program of the State of New Hampshire for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources of air pollution, and to certain other sources. EPA granted interim approval to New Hampshire's operating permit program on October 2, 1996.

**DATES:** This direct final rule is effective on November 23, 2001 without further notice, unless EPA receives relevant adverse comment by October 24, 2001. If EPA receives relevant adverse comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Steven Rapp, Unit Manager, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S.

Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal, and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA.

**FOR FURTHER INFORMATION CONTACT:** Ida E. Gagnon, (617) 918–1653.

**SUPPLEMENTARY INFORMATION:** This section provides additional information by addressing the following questions:

What Is the operating permit program?
How has New Hampshire addressed EPA's interim approval issue?
What is involved in this final action?

## What Is the Operating Permits Program?

The Clean Air Act Amendments (CAA) of 1990 required all state and local permitting authorities to develop operating permit programs that meet certain Federal criteria. 42 U.S.C. 7661–7661e. 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 and enforcement 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 to determine compliance with those requirements.

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. See 40 CFR § 70.3. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating 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, or particulate matter (PM 10); those that emit 10 tons per year of any single hazardous air pollutant specifically listed under the CAA (HAP); or those that emit 25 tons per year or more of a combination of 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,'' such as parts of southern New Hampshire, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

## How Has New Hampshire Addressed EPA's Interim Approval Issue?

Where an operating permit program substantially, but not fully, meets the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA may grant the program interim approval. Because New Hampshire's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on October 2, 1996 (61 FR 51370). In order for EPA to grant full approval to New Hampshire's operating permits program, they had to amend their regulations to provide for ''section 502(b)(10) changes'' at a Title V source. On May 14, 2001, New Hampshire submitted a revision to its operating permits program incorporating the relevant sections of 40 CFR § 70.4(b)(12) governing ''section 502(b)(10) changes.'' The State regulations implementing the necessary changes are Env–A 609.08(c)(3) and 612.02.

## What Is Involved in This Final Action?

The State of New Hampshire's program now addresses the interim approval issue EPA identified under Part 70. Therefore, EPA is taking final action to fully approve the State's operating permit program. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment 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 grant full approval should relevant adverse comments be filed. This action will be effective November 23, 2001 unless the Agency receives adverse comments by October 24, 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 then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If EPA receives no such comments, the public is advised that this action will be effective on November 23, 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 significant 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 current 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 23, 2001. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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 70**

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

Dated: September 14, 2001.

**Ira W. Leighton,**

*Acting Regional Administrator, EPA New England.*

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

## PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding paragraph (b) in the entry for New Hampshire to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

* * * * *

**New Hampshire**

* * * * *

(b) The New Hampshire Department of Environmental Services submitted program revisions on May 14, 2001. EPA is hereby granting New Hampshire full approval effective on November 23, 2001.

* * * * *

[FR Doc. 01–23763 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 81

**[Docket #: WA–01–001; FRL–7064–3]**

## Clean Air Act Finding of Attainment; Spokane, Washington Particulate Matter (PM–10) Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA or we).

**ACTION:** Final rule.

**SUMMARY:** EPA has determined that the Spokane nonattainment area has attained the National Ambient Air Quality Standards for particulate matter with an aerodynamic diameter of less than or equal to 10 microns by the attainment date of December 31, 1997, as required by the Clean Air Act.

**EFFECTIVE DATE:** October 24, 2001.

**ADDRESSES:** Copies of all information supporting this action are available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Pacific Standard Time at EPA Region 10, Office of Air Quality, 10th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. A reasonable fee may be charged for copies.

**FOR FURTHER INFORMATION CONTACT:** Steven Body, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–0782.

**SUPPLEMENTARY INFORMATION**

### I. Background

On May 16, 2001, we solicited public comment on a proposal to find that the Spokane nonattainment area has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to 10 microns (PM–10) by the attainment date of December 31, 1997, as required by the Clean Air Act. In the proposal, we stated that EPA would accept public comments on the proposed finding until June 15, 2001. *See* 66 FR 27055 (May 16, 2001).

During the public comment period that ended on June 15, 2001, we received written comments from two commenters. The Washington State Department of Ecology (Ecology or State) supported EPA's proposed determination. Earthjustice, on behalf of the Sierra Club, submitted adverse comments.

### II. Major Issues Raised by Commenters

The following is a summary of the issues raised in the comments on the proposal, along with EPA's response to those issues.

*A. Attainment Date for the Area*

Earthjustice stated that EPA's proposal wrongly assumed that the attainment date for the Spokane PM–10 nonattainment area was December 31, 1997, and that, pursuant to section 188(c)(1) of the CAA, the attainment date for the area is December 31, 1994. According to Earthjustice, EPA's temporary waiver of the attainment date was void from the outset and that, in any event, it did not purport to

permanently extend the original attainment date. The commenter further asserted that the temporary waiver was conditional on Ecology submitting a showing meeting the requirements of section 188(f), which includes a showing that nonanthropogenic sources contribute significantly to violation of PM–10 standards in the area and that anthropogenic sources do not contribute significantly to PM–10 violations in the area. Because Ecology never made this showing, and EPA has never made either of these determinations with respect to Spokane, Earthjustice asserts, the temporary waiver of the attainment date was nullified, even assuming EPA had authority to grant a ''temporary'' waiver of the attainment date in the first place. Moreover, according to Earthjustice, the temporary waiver applied only where windblown dust was an important contributor to the exceedances and EPA has not proposed to find that windblown dust was an important contributor to the exceedances that occurred as of December 31, 1994. Therefore, according to the commenter, the attainment date for the Spokane area is December 31, 1994 and, based on the data in the EPA Aerometric Information Retrieval System (AIRS), the Spokane PM–10 nonattainment area was not in attainment of the PM–10 standards as of that date.

EPA disagrees with the commenter's assertions that EPA's temporary waiver of the attainment date for the Spokane area was invalid at the outset and that the temporary waiver was in any event nullified because the conditions for the temporary waiver were not met. As discussed in the proposed finding of attainment, the Spokane PM–10 nonattainment area was an ''initial'' PM–10 nonattainment area with an attainment date of December 31, 1994. *See* 66 FR 27056; *see also* CAA section 188(a) and (c)(1). Section 188(f) of the CAA provides EPA with the authority to waive a specific date for attainment of the standard under certain circumstances based on the relative contribution of anthropogenic and nonanthropogenic sources of PM–10 to violation of the PM–10 standards in the area. *See* ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Amendments of 1990,'' 59 FR 41998, 42003 (April 16, 1994) (Serious Area Guidance).

In the moderate area State Implementation Plan (SIP) submitted by Ecology for the Spokane area in the early 1990s, Ecology included information indicating that nonanthropogenic sources may be significant in the Spokane PM–10 nonattainment area during windblown dust events. Based on our review of the State's submissions, we approved Spokane's moderate area SIP for all sources except for windblown dust and, under section 188(f) of the CAA and consistent with EPA's Serious Area Guidance interpreting that provision, granted a temporary waiver to extend the attainment date for the Spokane area to December 31, 1997. *See* 62 FR 3800 (January 27, 1997) (final action); 61 FR 35998 (July 9, 1996) (proposed action). The temporary waiver was intended to provide Ecology time to evaluate further the Spokane nonattainment area and to determine the significance of the anthropogenic and nonanthropogenic sources impacting the area. EPA stated that, once these activities were complete or the temporary waiver expired, EPA would make a decision on whether the area was eligible for a permanent waiver under section 188(f) of the CAA or whether the area had attained the standards by the extended attainment date. *See* 62 FR 3802.

Earthjustice asserts that EPA's temporary waiver of the attainment date for the Spokane area was invalid from the outset. However, neither Earthjustice, the Sierra Club, nor any other commenter commented on EPA's authority to grant the Spokane area a temporary waiver of the attainment date when EPA proposed the temporary waiver in 1996. *See* 62 FR 3801. In addition, no petitions for review were filed in response to EPA's final action to grant the temporary waiver to the Spokane area. Any concerns regarding EPA's authority to grant a temporary waiver of the attainment date under CAA section 188(f) were required to be raised when EPA took final action to grant the temporary waiver and, coming more than four years after EPA's action to grant the Spokane area a temporary waiver of the attainment date, are untimely in the context of this rulemaking to determine whether the Spokane area attained the PM–10 standards by the attainment date. *See* CAA section 307(b)(1)(a petition for review must be filed within 60 days from the date of notice of final agency action).

EPA also disagrees that the temporary waiver of the attainment date for the Spokane area was nullified because Ecology did not establish, and EPA did not find, that the Spokane area met the requirements of CAA section 188(f) for a permanent waiver of the attainment date. There is nothing in the proposal or the final action for the temporary waiver to suggest that the temporary waiver of the attainment date to December 31, 1997 was conditioned on Ecology ultimately being successful in obtaining a permanent waiver of the attainment date. The clear purpose of the temporary waiver was to ''allow[] Ecology and EPA to evaluate further the windblown dust PM–10 problems in the Spokane PM–10 nonattainment area.'' 62 FR 3802 (final action granting temporary waiver); *see also* 61 FR 35999 (proposal for temporary waiver). Both the final action and the proposal state that ''once that evaluation is completed, and/or the temporary waiver expires, EPA will make final determinations on the designations and other requirements.'' 62 FR 3802 (final action granting temporary waiver); *see also* 61 FR 35999 (proposal for temporary waiver). The fact that the notices state that EPA would make the attainment determination ''after the temporary waiver expires'' is completely inconsistent with the notion that the temporary waiver would be retroactively nullified if the Spokane area did not qualify for a permanent waiver of the attainment date.

Earthjustice cites the Serious Area Guidance (59 FR 42008) in support of its position that EPA guidance precludes a waiver unless EPA also finds that anthropogenic sources do not contribute significantly to PM–10 violations. In fact, the Serious Guidance makes clear that the purpose of a temporary waiver of the moderate area attainment date for up to three years is ''to allow further evaluation'' of whether nonanthropogenic sources contribute significantly to violations and anthropogenic sources contribute insignificantly to violations of the PM–10 standards. Although the Serious Area Guidance does state, as the commenter points out, that ''the need for reinstating a specific attainment date and/or previously waived serious area requirements should be reconsidered periodically,'' 59 FR 42006, that statement is made in the context of discussing the need to evaluate whether the conditions for a permanent waiver continue to exist. There is no indication in the Serious Area Guidance that the reference to ''reinstating a specific attainment date'' contemplated the retroactive reinstatement of an attainment date that had already passed in time.[1]

[1] As an example of a situation where an attainment date could be reinstated, consider the case of a serious PM–10 nonattainment area with an attainment date of December 31, 2006. Assume that, in 2000, based on the information available at

Continued

Earthjustice is correct that the temporary waiver for Spokane is conditioned on windblown dust (both anthropogenic and nonanthropogenic) being an important contributor to the exceedances. EPA included this condition when it granted the temporary waiver to ensure it could reclassify the area to serious before December 31, 1997 if PM–10 exceedances in the Spokane area were caused by sources other than windblown dust. *See* 61 FR 36003 (''If any of the non-wind blown dust sources cause any exceedances of the PM–10 24-hour standard the area could be reclassified to serious.''). The relevant question, however, is whether windblown dust was an important contributor to exceedances that occurred during the life of the temporary waiver (between January 1, 1995 and December 31, 1997), and not, as Earthjustice asserts, whether windblown dust was an important contributor to exceedances that occurred prior to December 31, 1994.

The preamble language discussing the temporary waiver for the Spokane area is ambiguous regarding whether the temporary waiver could be nullified by a single exceedance attributable to non-windblown dust sources or whether the temporary waiver would be nullified only if the area continued to be in nonattainment because of exceedances caused by non-windblown dust sources. The memorandum of agreement between EPA and Ecology addressing the temporary waiver, which is quoted in the proposed and final action for the temporary waiver, states that ''The Spokane and Wallula nonattainment areas will retain the classification of a moderate PM–10 nonattainment area until 12/31/97 unless PM–10 air quality data indicates that the area has failed to attain the 24-hour standard because of exceedances that cannot be primarily attributable to windblown dust.'' *See* 62 FR 3802 (final action); 61 FR 3599 (proposed action). In several other places in EPA's proposal to grant the temporary waiver, the preamble states that the temporary waiver would apply to ''PM–10 exceedances caused by windblown dust.'' *See* 61 FR 3599 and 3603. Because the relevant inquiry under the CAA is whether an area is in attainment of the NAAQS, not whether the area has a single exceedance of the NAAQS, EPA's intent in granting the temporary waiver was that it would apply unless the Spokane area continued to violate the 24-hour PM–10 NAAQS because of exceedances that could not be primarily attributable to windblown dust.

As discussed in the proposed finding of attainment, a review of the air quality data in AIRS for the three-year period from January 1, 1995 through December 31, 1997 shows that there was only one recorded exceedance of the 24-hour PM–10 standard in the Spokane PM–10 nonattainment area: a concentration of 186 ug/m3 reported at the Crown Zellerbach site on August 30, 1996. 66 FR 27056. As also discussed in the proposal, even if the August 30, 1996 exceedance is included in determining the attainment status of the Spokane area, the data for the period from January 1, 1995 through December 31, 1997 would still show attainment of the 24-hour PM–10 standard.[2] 66 FR 27057.

In addition, the State has claimed and submitted information to show that the August 30, 1996 exceedance was due to emissions of soils caused by high winds and thus qualified as a natural event under EPA guidance. *See* Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled ''Areas Affected by Natural Events,'' dated May 30, 1996 (Natural Events Policy). A copy of the documentation submitted by Ecology is in the docket. Based on the information provided by Ecology, EPA believes that windblown dust (both anthropogenic and nonanthropogenic) was an important contributor to the exceedance that occurred on August 30, 1996. There is no evidence to show that non-wind blown dust sources were the main cause of this exceedance. Moreover, as discussed above, this one exceedance does not represent a violation of the 24-hour PM–10 NAAQS. Thus, EPA concludes that this August 30, 1996 exceedance does not nullify the temporary waiver and that the attainment date for the Spokane PM–10 nonattainment area is December 31, 1997.

Earthjustice comments that EPA must seek notice and public comment on any determination that windblown dust was an important contributor to the exceedances before we can conclude that the temporary waiver remained in effect until December 31, 1997. EPA disagrees. This finding is implicit in our statements in the proposal that the attainment date for the Spokane PM–10 nonattainment area is December 31, 1997. The information supporting EPA's position on this issue has been in the docket since the proposal for this action was published and was available for review and comment by interested parties. In any event, the intent of EPA in granting the temporary waiver was that it would apply unless the Spokane area continued to violate the 24-hour PM–10 NAAQS because of exceedances that could not be primarily attributable to windblown dust. The single exceedance that occurred in August 1996, even if it is not deemed primarily attributable to windblown dust, does not represent a violation of the 24-hour PM–10 NAAQS.

*B. Application of Natural Events Policy*

Earthjustice commented that EPA's proposal to exclude consideration of the August 30, 1996 exceedance at the Crown Zellerbach monitor is not defensible because the State did not have a Natural Event Action Plan (NEAP) for the area at the time of the exceedance and the State did not document that best available control measures (BACM) were required for sources of windblown dust in the Spokane area at the time of the exceedance. As discussed in the proposal for this action, even if the exceedance recorded at the Crown Zellerbach monitoring site on August 30, 1996 is not excluded as a natural event and is considered in the attainment determination, the expected exceedance rate for the Spokane area averaged over the three-year period of 1995, 1996 and 1997 would be 0.34. This is less than the expected exceedance rate of 1.0 that would represent a violation of the 24-hour PM–10 standard. Therefore, even if the commenter were correct in its assertions, the data would still support a finding that the Spokane PM–10 nonattainment area attained the 24-hour PM–10 standard as of the attainment date of December 31, 1997.

*C. Clarification of Factual Issues*

Ecology submitted a letter supporting EPA's proposed finding that the Spokane PM–10 nonattainment area attained the PM–10 standards by the attainment date of December 31, 1997.

that time, the area requested and EPA granted a permanent waiver of the serious area attainment date. The Serious Area Guidance states that an area that receives a waiver should review the status of anthropogenic and nonanthropogenic source contributions in the area every three years. 59 FR 42006. If, in 2003, the available information shows that nonanthrogenic sources no longer contribute significantly to the exceedances in the area, the serious area attainment date of December 31, 2006 should be reinstated.

[2] Even if air quality data for the three-year calendar period preceding and including the August 30, 1996 exceedance is considered and it is assumed that the August 30, 1996 exceedance was due to non-windblown dust sources, that exceedance would still not nullify the temporary waiver because it would not indicate the Spokane area ''failed to attain the 24-hour health standard because of exceedances that cannot be primarily attributable to windblown dust. There were no exceedances of the 24-hour PM–10 standard in the Spokane area in 1994 or 1995. Thus, the area was in attainment of the 24-hour standard as of December 31, 1996 even if the August 30, 1996, exceedance is considered.

Ecology also noted three areas where it believed EPA should clarify factual issues in the final determination. First, Ecology stated that EPA should clarify that EPA has fully approved the moderate area SIP for the Spokane PM–10 nonattainment area except as it relates to windblown dust. EPA acknowledges that it has approved the emission inventory, control measures, attainment demonstration, quantitative milestones/reasonable further progress, and contingency measures in the Spokane PM–10 SIP for all sources except for sources of windblown dust and has also granted the area the exclusion from the control requirements for PM–10 precursors. *See* 62 FR 3802 (final action); 61 FR 36000–36003 (proposed action).

Ecology also requested that EPA clarify that we have acknowledged in AIRS that the exceedance that occurred on September 25, 1999 was due to a natural event. In the proposed finding of attainment for the Spokane area, EPA stated that it was still reviewing the documentation to support the State's determination that this exceedance was due to a natural event and had not yet confirmed the State's claim for this exceedance. Just after publication of the proposed finding of attainment, EPA discovered this error and, before expiration of the public comment period, notified Ecology, the local air authority for Spokane County, and Earthjustice of this error. EPA also provided to Earthjustice a copy of EPA's September 20, 2000 letter to Ecology acknowledging the September 25, 1999 exceedance was attributable to a natural event.

Ecology also stated in its comments that there were five monitoring sites in the Spokane PM–10 nonattainment area during the period of 1995 through 1997, not six as stated in EPA's proposed finding of attainment for the Spokane area. It is true that there are in fact only five monitoring sites operating in the Spokane PM–10 nonattainment area during this time, although there is a sixth monitor located in Spokane County outside of the nonattainment area which EPA did consider in making this attainment determination. However, neither this clarification, nor any of the other clarifications requested by Ecology affect EPA's determination that the Spokane PM–10 nonattainment area attained the PM–10 standards by the attainment date.

## III. Implications of Today's Action

As discussed above, EPA finds that the Spokane PM–10 nonattainment area attained the PM–10 NAAQS by December 31, 1997, the attainment date for the area. This finding of attainment should not be confused, however, with a redesignation to attainment under CAA section 107(d) because the State has not, for the Spokane area, submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignations to attainment. The designation status in 40 CFR part 81 will remain moderate nonattainment for the Spokane PM–10 nonattainment area until such time as Washington meets the CAA requirements for redesignations to attainment.

## IV. Administrative Requirements

Under Executive Order 12866 ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use'' (66 FR 28355, May 22, 2001). Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities because it merely makes a determination based on air quality data and does not impose any requirements. In addition, this action 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 does not impose any enforceable duties.

This action 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 action 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 action merely makes a determination based on air quality data and does not impose any requirements and therefore 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 action also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) because it is not a significant regulatory action under Executive Order 12866.

This action does not involve technical standards. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. In addition, this action 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 23, 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 81

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

Dated: September 13, 2001.

**Charles E. Findley,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 01–23765 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Parts 102–117 and 102–118

**[FMR Amendment D–1]**

**RIN 3090–AH43**

### Transportation Management and Transportation Payment and Audit

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is extending the retirement date of Optional Forms 1103, U.S. Government Bill of Lading (GBL), and 1203, U.S. Government Bill of Lading—Privately Owned Personal Property (PPGBL), until March 31, 2002. A GSA review indicated that instead of transitioning to standard business practices, agencies were creating a new form to replace the GBL. Extending the retirement date for six months will give agencies more time to enhance electronic transportation systems currently in place and transition to the use commercial practices.

**DATES:** Effective September 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Allison, Program Analyst, Transportation Management Policy Program, Office of Governmentwide Policy, General Services Administration, by phone at 202–219–1729 or by e-mail at *elizabeth.allison@gsa.gov*.

**SUPPLEMENTARY INFORMATION:**

### A. Background

GSA published Federal Management Regulation (FMR) part 102–117 (41 CFR part 102–117), Transportation Management in the **Federal Register** on October 6, 2000 (65 FR 60059), and FMR part 102–118 (41 CFR part 102–118), Transportation Payment and Audit, in the **Federal Register** on April 26, 2000 (65 FR 24568). These final rules provided for the retirement of Optional Forms 1103 and 1203, the BGL and PPGBL, respectfully for domestic use.

### B. Substantive Changes

This rule extends the retirement date for Optional Forms 1103 and 1203, to March 31, 2002. Although both the GBL and the PPGBL are being retired for domestic shipments, both forms will remain available for international and domestic overseas shipments.

The government will need to transmit some type of shipping order to the transportation service provider (TSP), but not a bill of lading. The transmittal (preferably electronic) must include all information necessary for booking a shipment. In practicality these actions eliminate two government forms and transition agencies to the use of standard industry practice and electronic commerce.

### C. Executive Order 12866

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

### D. Regulatory Flexibility Act

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

### E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose recordkeeping or information collection requirements, or the collection of information from contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 501–517.

### F. Small Business Regulatory Enforcement Fairness Act

This rule is exempt from Congressional review under 5 U.S.C. 901 since it relates solely to agency management and personnel.

### List of Subjects in 41 CFR Parts 102–117 and 102–118

Freight, Government property management, Moving of household goods, Transportation.

For the reasons set forth in the preamble, 41 CFR chapter 102 is amended as follows:

## PART 102–117—TRANSPORTATION MANAGEMENT

1. The authority citation for part 102–117 continues to read as follows:

**Authority:** 31 U.S.C. 3726; 40 U.S.C. 481, *et seq.*

**§ 102–117.90 [Amended]**

2. Section 102–117.90 is amended by removing the date ''September 30, 2001'' wherever it appears and adding the date ''March 31, 2002'' in its place.

## PART 102–118—TRANSPORTATION PAYMENT AND AUDIT

3. The authority citation for part 102–118 continues to read as follows:

**Authority:** 31 U.S.C. 3726; 40 U.S.C. 481, *et seq.*

**§§ 102–118.40, 102–118.95, 102–118.115, and 102–118.175 [Amended]**

4. Remove the date ''September 30, 2001'' wherever it appears and add the date ''March 31, 2002'' in its place in the following sections:

§ 102–118.40
§ 102–118.95
§ 102–118.115
§ 102–118.175

Dated: September 10, 2001.

**Stephen A. Perry,**

*Administrator of General Services.*

[FR Doc. 01–23725 Filed 9–21–01; 8:45 am]

BILLING CODE 6820–24–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 635

**[Docket No. 010710169–1226-02; I.D. 060401B]**

**RIN 0648–AP31**

### Atlantic Highly Migratory Species; Longline Fisheries

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

**ACTION:** Revision to an emergency rule; request for comments.

**SUMMARY:** NMFS revises the emergency regulations governing the Atlantic highly migratory species (HMS) fisheries that require all vessels issued an Atlantic HMS permit to post in their wheelhouses NMFS-supplied sea turtle handling and release guidelines for pelagic longline gear to require that only such vessels fishing for Atlantic HMS that have pelagic or bottom longline gear on board post the guidelines. This revision is needed to make the regulations consistent with an August 31, 2001 revision to a term and condition of the reasonable and prudent measure identified in the incidental take statement accompanying the June 14,2001 Biological Opinion on the Atlantic HMS Fishery Management Plan and its associated fisheries. The intent of this revision is to remove the requirement that non-longline vessels post sea turtle handling and release guidelines that are specific to longline gear.

**DATES:** Effective September 15, 2001, through January 9, 2002. Comments must be received by November 8, 2001.

**ADDRESSES:** Written comments may be sent to Christopher Rogers, Acting Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to 301–713–1917. Comments will not be accepted if submitted via e-mail or the Internet. Copies of the Biological Opinion that requires this action may also be obtained from this address.

**FOR FURTHER INFORMATION CONTACT:** Tyson Kade or Karyl Brewster-Geisz at 301–713–2347 or via fax at 301–713–1917.

**SUPPLEMENTARY INFORMATION:** On June 8, 2001, (revised June 14, 2001) NMFS published a Biological Opinion (BiOp) that found that the Atlantic pelagic longline fishery is jeopardizing the continued existence of loggerhead and leatherback sea turtles. The BiOp estimated that a 55-percent reduction in bycatch mortality from the pelagic longline fishery is necessary to allow for the recovery of these two species. To achieve the necessary reduction, the BiOp required the implementation of a reasonable and prudent alternative that was composed of several elements. On July 13, 2001, NMFS issued an emergency rule (66 FR 36711) that closed the northeast distant statistical reporting area, required specific gear deployment modifications, and required that the safe handling and release guidelines for sea turtles caught in pelagic longline gear be posted aboard all vessels permitted for HMS fisheries. The emergency rule is effective until January 9, 2002.

On August 31, 2001, the June 14, 2001 BiOp was further revised with respect to a term and condition of the reasonable and prudent measure identified in the accompanying incidental take statement to limit the requirement to post the sea turtle handling and release guidelines to vessels using longline gear. The safe handling guidelines are specific to longline interactions and would not be applicable to vessels using other gear such as seines or gillnets. The costs to the government of printing and distributing guidelines to non-longline HMS vessels, and the burden on such vessels of posting those guidelines is not justified. Accordingly, NMFS is revising the regulation to apply only to permitted vessels having pelagic and bottom longline on board.

## Classification

The Assistant Administrator for Fisheries (AA), under 5 U.S.C. 553(b)(3), finds that providing prior notice and opportunity for public comment on this revision would be contrary to the public interest. Without this revision, HMS vessels that do not display the sea turtle safe handling and release guidelines would be in violation of the regulations. While NMFS has supplied sea turtle safe handling and release guidelines to all longline vessels, NMFS has not supplied, and does not intend to supply, the guidelines to non-longline vessels. In order that non-longline vessels not be in technical violation, it is necessary to make this revision without prior notice and an opportunity for public comment. Because this rule relieves a restriction, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effective date. The requirement for longline vessels to post the guidelines remains effective from September 15, 2001 through January 9, 2002.

Because prior notice and opportunity for public comment are not required for this final rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable.

This action is not significant under the meaning of Executive Order 12866.

## List of Subjects in 50 CFR Part 635

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

Dated: September 18, 2001.

**William T. Hogarth,**

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

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

## PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

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

**Authority:** 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

2. In § 635.21, paragraph (a)(3) is suspended and a new paragraph (a)(4) is added to read as follows:

### § 635.21 Gear operation and deployment restrictions.

* * * * *

(a) * * *

(4) Effective September 15, 2001, through January 9, 2002, operators of all vessels that have pelagic or bottom longline gear on board and that have been issued, or required to have, a limited access swordfish, shark, or tuna longline category permit for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico must post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS.

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[FR Doc. 01–23795 Filed 9–21–01; 8:45 am]

BILLING CODE 3510–22–S

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 010228052–1211–02; I.D. 010301D]**

**RIN 0648–AL95**

## Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule that implements Amendment 60 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, Amendment 58 to the FMP for Groundfish of the Gulf of Alaska, and Amendment 10 to the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and the Aleutian Islands. This rule is necessary to implement changes to the License Limitation Program (LLP) made by these amendments and are intended to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the three FMPs.

**DATES:** Effective October 24, 2001, except for § 679.4(k)(3)(i) and (k)(3)(iv)(A), and § 679.7(i)(9) which will be effective January 1, 2002.

**ADDRESSES:** Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) and the final regulatory flexibility analysis (FRFA) are available from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel, or hand pick-up at Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

**FOR FURTHER INFORMATION CONTACT:** John Lepore, 907–586–7228.

**SUPPLEMENTARY INFORMATION:**

## Background

The North Pacific Fishery Management Council (Council)

recommended, and NMFS approved, the LLP to address concerns of excess capital and capacity in the groundfish and crab fisheries in and off Alaska. The LLP is one stage of a multi-staged process to reduce capacity and capital in the affected fisheries. The LLP replaced the Vessel Moratorium Program (VMP), a program implemented by NMFS to impose a temporary moratorium on the entry of new capacity in the groundfish and crab fisheries in and off Alaska and to help define the class of entities that would be eligible for licenses under the LLP. The VMP expired on December 31, 1999, and fishing under the LLP began on January 1, 2000. More information on the background and development of the LLP can be found in the preamble to the final rule implementing the LLP at 63 FR 52642 (October 1, 1998).

In October 1998, the Council recommended several changes to the LLP through Amendments 60, 58, and 10. A notice of availability for these amendments was published January 17, 2001 (66 FR 3976), which initiated a 60-day public comment period on the approval of these amendments by NMFS. All public comments received during that period were in favor of approval. NMFS approved Amendments 60, 58, and 10 on April 18, 2001. The following section outlines the changes made to the LLP by Amendments 60, 58, and 10. More information regarding these changes, including the Council's rationale for recommending them, can be found in the preamble to the proposed rule for this action at 66 FR 17397 (March 30, 2001).

**Changes to the LLP Qualifying Criteria**

1. A recent participation requirement has been added to the eligibility for a crab species license.

The qualification criteria to receive a permanent crab species license has been changed to require participation during the period beginning January 1, 1996, through February 7, 1998. Under the original provisions of the LLP, a person only needed to demonstrate that documented harvests were made from a qualifying vessel during two periods for a crab species license. These two periods are the general qualification period (GQP), which began January 1, 1988, through June 27, 1992, and the endorsement qualification period (EQP), which varied according to the particular area/species endorsements included on the license.

A third period, the recent participation period (RPP), has been added to the documented harvest requirements for crab. Under the RPP, a person must demonstrate that at least one documented harvest of any amount of crab species was made from a qualifying vessel during the period beginning January 1, 1996, through February 7, 1998. The additional eligibility requirement of the RPP is designed to reduce the number of crab species licenses that might otherwise be issued to persons who have been inactive in the crab fishery since 1995. If permanent licenses were issued to inactive fishermen, they could transfer those licenses to persons who would become active in the fishery. This result would be contrary to the purpose of the LLP because it would likely increase fishing effort above the current levels in the crab fisheries.

Several exemptions from the RRP requirement are provided based on public testimony before the Council and in consideration of the impacts the RPP could have on small fishing operations. This final rule in response to public comments adds a hardship exemption (unavoidable circumstances), similar to that provided for the EQP. The following exemptions are included in this final rule.

*Exemption 1*: A person who only qualifies for a Norton Sound red king crab and Norton Sound blue king crab endorsement does not have to meet the documented harvest requirements of the RPP.

*Exemption 2*: A person whose qualifying vessel is less than 60 ft (18.3 m) length overall (LOA) does not have to meet the documented harvest requirements of the RPP.

*Exemption 3*: A person whose qualifying vessel was unable to meet the documented harvest requirements of the RPP because it was lost or destroyed, but from which a documented harvest of crab species was made during the period beginning after the vessel was lost or destroyed through January 1, 2000, does not have to meet the documented harvest requirements of the RPP.

*Exemption 4*: A person who can demonstrate that his or her vessel made a documented harvest of crab species during the period beginning January 1, 1998, through February 7, 1998, and who obtains the fishing history of a vessel that meets the GQP and the EQP, or enters into a contract to obtain the fishing history of a vessel that meets the GQP and the EQP, by 8:36 am Pacific standard time on October 10, 1998, does not have to meet the requirement of having a complete fishing history on the same qualifying vessel for qualification.

*Exemption 5*: A person who can demonstrate that he or she had a specific intent to participate in the crab fisheries during the RPP but was prevented from participating by circumstances that were unavoidable, unique, and unforeseen and unforeseeable, does not need to meet the documented harvest requirements of the RPP.

2. A transfer of groundfish LLP licenses that was earned from a vessel that did not have a Federal Fisheries Permit (FFP) is restricted.

This final rule restricts the transfer of a groundfish LLP license that was earned based on documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998. Under this transfer restriction, the groundfish LLP license and the vessel from which the license was earned must be transferred together. In other words, this type of groundfish LLP license cannot be transferred separately and used on a vessel other than the original qualifying vessel.

This transfer restriction has two exceptions. First, if the fishing history of a vessel that did not have an FFP was transferred before February 7, 1998, the qualifying vessel did not have to accompany the license. However, subsequent transfers will require the license to be ''coupled'' with the existing vessel (i.e., the license cannot be transferred separately from the vessel named on the license). Second, a vessel that is subject to this provision but that is lost or destroyed can be replaced under the general vessel replacement provisions of the LLP.

Concerns of excess capacity in the affected fisheries influenced the Council to recommend this transfer restriction. This transfer restriction is based on the fact that an FFP was required for any vessel that participated in a Federal groundfish fishery off Alaska. If a vessel participated in a Federal groundfish fishery off Alaska without an FFP, it did so illegally. If a vessel did not participate in a Federal groundfish fishery off Alaska, its qualifying documented harvests must have occurred in waters of the State of Alaska (State waters) or other waters shoreward of the exclusive economic zone (EEZ) off Alaska. Groundfish fisheries in State waters or other waters shoreward of the EEZ off Alaska will not be managed under the LLP; therefore, the fishing behavior of these operations should not be affected.

3. A gear designation is added to groundfish licenses.

Adding a gear designation to groundfish licenses is intended to prevent movement between the trawl sector and the non-trawl sector. This action will effectively limit participation within a gear sector's

fishery to those who are historically dependent on that fishery. Under this provision, a license will be issued a ''trawl,'' ''non-trawl,'' or ''trawl/non-trawl'' gear designation based on gear participation before June 17, 1995. If, for example, a person used trawl gear and longline gear before June 17, 1995, the license issued to that person will have a trawl/non-trawl gear designation. This designation will mean that the license holder could use trawl gear and non-trawl gear. However, if a person used only trawl gear before June 17, 1995, the license issued to that person will have a trawl gear designation. This designation will mean that the license holder can only use trawl gear.

The general rule on gear designations has two exceptions. First, a person can exercise a one-time option to switch gear designations if that person used a different gear type between June 18, 1995, and February 7, 1998, than was used previously. For example, a person used only trawl gear before June 17, 1995, but in 1997 used pot gear to catch Pacific cod. The use of this non-trawl gear type in 1997 would allow the person to exercise a one-time option to change the gear designation from trawl gear to non-trawl gear. A person cannot qualify for a trawl/non-trawl gear designation by use of this exception.

Second, a person can request a gear designation change based on a significant financial investment. To qualify under the second exception a person will have to (1) demonstrate that a significant financial investment was made in converting a vessel and/or purchasing fishing gear on or before February 7, 1998, and (2) demonstrate that a documented harvest was made from the qualifying vessel with the new gear type on or before December 31, 1998. What is meant by a significant financial investment was defined by the Council based on industry testimony during the development of this action. Industry testimony indicated that spending at least $100,000 toward vessel conversion and/or gear to change from a non-trawl to a trawl fishery, or having acquired groundline, hooks or pots, and hauling equipment to change from a trawl to a non-trawl fishery, should be considered sufficient to justify a gear designation change.

4. The Community Development Quota (CDQ) vessel exemption is limited to a specific time period.

An exemption to LLP licensing requirements for specific CDQ vessels is included in the LLP regulations at 50 CFR 679.4(k)(2)(iv). This exemption was intended to facilitate the ability of CDQ organizations to enter and prosecute groundfish fisheries with newly constructed vessels that did not qualify under the LLP. However, concerns over excess capacity in the groundfish fisheries, and recognition that CDQ organizations are integrating into the existing fishing industry at a reasonable pace, induced the Council to recommend a limit to this exemption. The Council recommended that the exemption be limited to vessels that met the CDQ vessel exemption criteria between November 18, 1992, and October 9, 1998, the latter of which is the date the Council recommended the limitation. Allowing CDQ vessels to qualify for this exemption through that date would protect the investment-backed expectations of any CDQ organization that decided to use this exemption before the Council's decision to limit the provision.

5. The use of a groundfish or crab LLP license is limited to the vessel named on the license.

Under this final rule, effective January 1, 2002, a groundfish or crab LLP license may only be used on the vessel named on the license. This restriction was recommended by the Council to address concerns about the movement of license holders among vessels contributing to excess capacity in the fisheries. Currently, an LLP license is not directly linked to a particular vessel and a license holder is able to use any vessel to fish for license limitation groundfish or crab species if that vessel complies with vessel length restrictions.

For licenses issued after the effective date of this final rule, NMFS will specify the name of the vessel on the license. A license holder will be authorized to use only the vessel designated on the license. A change to the vessel designated on the license will require agency action and will count toward the limit of one transfer per license in each calendar year.

6. Limited processing ability is authorized for a person who holds a license with a catcher vessel designation.

Currently, LLP licenses are separated into two distinct processing designations: A catcher vessel designation, which means that the license holder cannot process fish; and a catcher/processor designation, which means that the license holder can catch and process fish on the same vessel. The Council, through public testimony, was presented with two reasons why some relief should be granted under these strict category distinctions.

First, public testimony indicated that an opportunity should be provided for entry into processing. Second, public testimony indicated that if limited processing opportunities were allowed, some catcher vessels would be able to take advantage of ''niche markets.'' Niche markets are small, specialized markets, such as a local grocery store or restaurant. Fishermen can sell directly to these markets and provide a specialty product to consumers in an expedited manner. For these reasons, the Council recommended a limited processing exception. This exception will allow an LLP license holder with a catcher vessel designation to process one metric ton of round fish per day if it is harvested on a vessel that is less than 60 ft (18.3 m) LOA, and if the license holder complies with other requirements (e.g., proper designation on the FFP and recordkeeping and reporting requirements for processing).

*Other Changes Included in This Rule and Small Entities Compliance Guide*

Several portions of the LLP regulations are revised to eliminate the word ''State'' when referring to waters shoreward of the EEZ off Alaska. The word ''State'' was eliminated because including it excluded from the LLP several areas shoreward of the EEZ off Alaska that are not State waters. These areas include the waters adjacent to the Metlakatla Indian Reservation and Federal areas reserved off Kodiak Island and Nunivak Island.

A prohibition is added specifying that a person cannot use a vessel, or allow a vessel to be used, to fish for license limitation groundfish or crab species, other than the vessel named on the license. This prohibition gives effect to the requirement in this action that a specific vessel must be named on the license.

The format for the eligibility criteria for the LLP is changed from regulatory text to several tables. The table format is intended make the eligibility requirements more accessible and understandable and serves as a Small Entities Compliance Guide to the LLP. It does not change any of the substantive requirements for eligibility. Instructions for using the tables to determine eligibility are as follows: (a) For each table, begin at the cell at column 1, row 1. This cell contains the beginning of a statement that, when completed, indicates whether you are eligible; (b) scan the various cells (row 2 through last row) in column 1 to find the second portion of the statement that began in the cell at column 1, row 1 and that applies to your particular case; and (c) once the appropriate row has been located, alternate between that row and row 1 sequentially through the columns to complete the statement.

For example, to determine whether you are eligible for a Bering Sea area

endorsement for your groundfish license, begin at the cell at column 1, row 1 in the table located at 50 CFR 679.4(k)(4)(ii). This cell contains the statement ''A groundfish license will be assigned . . . .'' Next, locate the cell in column 1 that corresponds with the endorsement for which you would like to determine eligibility. This can be found at column 1, row 3. Next, alternate between row 3 and row 1 sequentially through the columns to determine your eligibility. The completed statement would appear as follows: *A groundfish license will be assigned . . .* (from column 1, row 1) *a Bering Sea area endorsement* (from column 1, row 3) if . . . (from column 2, row 1) *at least one documented harvest of any amount of license limitation groundfish was made* (from column 2, row 3) *during the period . . .* (from column 3, row 1) *beginning January 1, 1992, through June 17, 1995* (from column 3, row 3) *in . . .* (from column 4, row 1) *the Bering Sea Subarea or in waters shoreward of that area* (from column 4, row 3) *from a vessel in vessel length category . . .* (from column 5, row 1) *''A'', ''B'', or ''C''* (from column 5, row 3) *and that meets the requirement for a . . .* (from column 6, row 1) *catcher/processor designation or a catcher vessel designation* (from column 6, row 3). Although the completed sentence is long, it provides sufficient information to determine eligibility. The same process can be used for other eligibility determinations.

**Changes in the Final Rule**

Several changes were made to this final rule: First, the proposed period for the lost vessel exemption will not be limited to January 1, 1996, through February 7, 1998. Instead, no period is specified. To qualify for this exemption, a person must (1) satisfy the documented harvest requirements of the GQP and the EQP; (2) demonstrate that the vessel used to meet the documented harvest requirements of the GQP and the EQP was lost or destroyed; and (3) document a harvest of any amount of crab species after the vessel was lost or destroyed but on or before January 1, 2000.

Second, the lost vessel exemption is revised so that a person other than the owner of the vessel can benefit from the exemption. This revision would allow any person who owns the fishing history of the lost or destroyed vessel to use that fishing history toward eligibility.

Third, a hardship exemption (unavoidable circumstances) has been added for the RPP. Adding an unavoidable circumstances provision to the RPP is consistent with the original provisions of the LLP (i.e., the EQP has an unavoidable circumstances provision). Also, adding an unavoidable circumstances provision will allow persons to qualify for a license who are dependent on the crab fishery but who failed to meet the documented harvest requirements of the RPP because of circumstances beyond their control.

Finally, the proposed revision of the definition of ''Person'' is withdrawn. That revision would not have made a substantive change to the definition of ''Person.''

**Response to Public Comments**

Eight sets of comments were received on Amendments 60, 58, and 10, and the proposed rule implementing those amendments. Six sets of comments urged the approval of Amendment 10 and do not justify a specific response. The other two sets of comments addressed specific provisions of the proposed rule and are summarized below.

*Comment 1*: The lost or destroyed vessel exemption was unnecessarily narrowed. First, the time period was made concurrent with the RPP period (from January 1, 1996, through February 7, 1998). This would preclude a person from using this exemption if a vessel was lost or destroyed after it was used to meet the documented harvest requirements of the EQP but before January 1, 1996. Second, only the vessel owner could benefit from this provision, rather any person who obtained the fishing history of the lost or destroyed vessel. This is inconsistent with the Council's policy to recognize the written transfer or retention of a fishing history. Also, NMFS should clarify that the transfer or retention of a vessel's fishing history will be analyzed for substance rather than formal terminology when it is reviewed for eligibility.

*Response*: NMFS agrees. The final rule is revised to extend the time period for the lost or destroyed vessel exemption and to allow someone other than the vessel owner to use the exemption if the fishing history of that vessel was properly transferred.

The preamble to the proposed rule implementing Amendments 60, 58, and 10 (66 FR 17397, March 30, 2001) addressed how NMFS would treat the transfer or retention of a fishing history and should be reviewed for details on fishing history transfer evaluations. NMFS intends to review the substance of transfers and retentions to respect the investment-backed expectations of persons and to preserve the overall policies of the LLP.

*Comment 2*: The RPP should have an unavoidable circumstances provision similar to the one provided for the EQP. Not providing an unavoidable circumstances provision for the RPP may unfairly preclude a person from eligibility and is inconsistent with the overall LLP.

*Response*: NMFS agrees. The final rule is revised to include an unavoidable circumstances provision for the RPP that is similar to the one provided for the EQP.

**License Re-issuance**

NMFS will notify each LLP license holder of the status of his or her license based on the changes made by Amendments 60, 58, and 10. A license holder will have 60 days to respond to NMFS regarding the status of his or her license and to designate the vessel which is to be named on the license, if allowed that option. After the 60 days has expired and a determination has been issued by NMFS, license holders will have the right to appeal to the Office of Administrative Appeals, Alaska Region, NMFS.

**Classification**

The Council prepared an environmental assessment for FMP Amendments 60, 58, and 10 that discusses the impact on the environment as a result of this rule. The analysis indicates that the individual impacts of the changes, and the cumulative impacts of all the changes, could have a negligible affect on the quality of the human environment. Most of the changes in this rule either limit participants, or their participation, as compared to the status quo. Allowing limited processing by catcher vessels is not expected to impact the fisheries stock, the physical environment, or non-target species. A copy of the environmental assessment is available from NMFS (see **ADDRESSES**).

An FRFA was prepared that describes the impact this final rule would have on small entities. The analysis concludes that most persons affected by the actions are small entities, given that their expected annual gross revenues are less that $3 million, or are assumed to be small entities because of insufficient annual receipts data. Nevertheless, NMFS finds that the small entities involved in this analysis are small businesses (fishing operations). Impacts to small organizations and small governmental jurisdictions are negligible. An estimated 447 groundfish license recipients could be affected by limiting the transfer of licenses earned on vessels that never held a Federal fisheries permit. Each of these 447 are

considered small entities because of insufficient annual receipts data.

All of the estimated 2,435 groundfish license recipients could be affected by adding gear endorsements to the license. Of these 2,435 license recipients, 2,272 are catcher vessels and 163 are catcher/processors. All 2,272 catcher vessels are assumed to be small entities because of insufficient annual receipts data. Of the 163 catcher/processors, some may be small entities for purposes of the RFA; however, due to an absence of ownership, partnership, and affiliation information it is not possible to report the number of each category with certainty. The estimated 2,435 groundfish license recipients are owners of catcher vessels and catcher-processor vessels that participated in the groundfish fisheries between January 1, 1988, and June17, 1995.

All six CDQ organizations, which are considered small entities, have the potential to be affected by the rescission of the CDQ vessel exemption, although none is expected to be impacted. NMFS expects this result because no CDQ organizations, to date, have sought to use this exemption, new management and affiliation relationships have developed with CDQ organizations that make the exemption unnecessary, and the Council provided a ''grandfather'' provision that protects any existing CDQ organization from being disadvantaged by this action.

An estimated 93 crab license recipients could be affected by the addition of a recent participation requirement for eligibility for a crab LLP license. Of these 93 crab license recipients, all are assumed to be small entities because of insufficient annual receipts data. The addition of a recent participation period (January 1, 1996, through February 7, 1998), which requires at least one documented harvest of crab during that time period, will reduce the number of crab license recipients from approximately 365 to 272.

An estimated 1,902 license recipients could be affected by allowing limited processing by catcher vessels under 60 feet. Of these 1,902 license recipients, all are assumed to be small entities because of insufficient annual receipts data.

The Council considered and adopted several measures to reduce the impact of the final rule. As originally proposed, limiting the transfer of licenses earned on vessels that never held a Federal Fisheries Permit would have disqualified license recipients who did not have a Federal Fisheries Permit for their vessels. After reviewing the impact disqualification would have on license recipients, primarily small entities, the Council recommended that licenses with limited transferability be issued to such recipients. The Council recommended that a provision be added to allow a license recipient to designate a gear type different from the one for which that license recipient qualified if certain criteria were met. In addition, the Council reviewed several alternatives for adding a recent participation period for crab license eligibility, including alternatives that would have required more participation than one documented harvest during the period from January 1, 1996, through February 7, 1998. The Council concluded that the measures outlined in the final rule provided the most benefits in meeting the goals of the LLP program while imposing the least harm to affected license recipients.

NMFS received eight sets of comments regarding this action. Six sets of comments urged approval of this action. Two sets of comments addressed specific aspects of the action and are summarized below.

One comment indicated that the time period established for lost or destroyed vessels was too short and would preclude persons who depended on the fishery from using the exemption. NMFS agreed with this comment and extended the time period to include all time between original eligibility time period under the LLP and January 1, 2000.

One comment indicated that the recent participation period for crab licenses did not have an unavoidable circumstances provision and that one should be added. The comment suggested a provision similar to the one provided for the endorsement qualification period under the original provisions of the LLP. NMFS agreed with this comment and added an unavoidable circumstances provision. This addition will make the recent participation period more consistent with the other provisions of the LLP and will provide a greater opportunity for persons who may be dependent on the fishery to qualify for a license.

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

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 13, 2001.

**William T. Hogarth,**

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

For reasons set out in the preamble, 50 CFR part 679 is amended to read as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq*; Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106-554.

2. In § 679.4, paragraphs (k)(2)(iv), (k)(3)(i), (k)(4)(i) through (k)(4)(v), (k)(5), (k)(5)(i)introductory text, (k)(5)(ii), and (k)(6)(iv)(D) are revised and paragraphs (k)(3)(ii)(D), (k)(3)(iv), (k)(5)(iii) through (k)(5)(vi), and (k)(7)(ix) are added to read as follows:

**§ 679.4 Permits.**

* * * * *

(k) * * *

(2) * * *

(iv) A catcher vessel or catcher/processor vessel that does not exceed 125 ft (38.1 m) LOA, and during the period after November 18, 1992, through October 9, 1998, was specifically constructed for and used exclusively in accordance with a CDP approved by NMFS, and is designed and equipped to meet specific needs that are described in the CDP, is exempted from the requirement to have a LLP groundfish license to conduct directed fishing for license limitation groundfish in the GOA and in the BSAI area and a crab species license to fish for crab species in the Bering Sea and Aleutian Islands Area.

(3) *Vessel and gear designations and vessel length categories*–(i) *General.* A license may be used only on a vessel named on the license, a vessel that complies with the vessel designation and gear designation specified on the license, and a vessel that has an LOA less than or equal to the MLOA specified on the license.

(ii) * * *

(D) *Limited processing by catcher vessels.* Up to 1 mt of round weight equivalent of license limitation groundfish or crab species may be processed per day on a vessel less than or equal to 60 ft (18.3 m) LOA that is authorized to fish with an LLP license with a catcher vessel designation.

* * * * *

(iv) *Gear designations for groundfish licenses*–(A) *General.* A vessel may only

use gear consistent with the gear designation on the LLP license authorizing the use of that vessel to fish for license limitation groundfish or crab species.

(B) *Trawl/non-trawl.* A license will be assigned a trawl/non-trawl gear designation if trawl and non-trawl gear were used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(C) *Trawl.* A license will be assigned a trawl gear designation if only trawl gear was used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(D) *Non-trawl.* A license will be assigned a non-trawl gear designation if only non-trawl gear was used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(E) *Changing a gear designation.* (*1*) An applicant may request a change of gear designation based on gear used from the vessel during the period beginning June 18, 1995, through February 7, 1998. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.

(*2*) An applicant may request a change of gear designation based on a significant financial investment in converting a vessel or purchasing fishing gear on or before February 7, 1998, and making a documented harvest with that gear on or before December 31, 1998. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.

(F) *Definitions of non-trawl gear and significant financial investment.* (*1*) For purposes of paragraph (k)(3)(iv) of this section, non-trawl gear means any legal gear, other than trawl, used to harvest license limitation groundfish.

(*2*) For purposes of paragraph (k)(3)(iv)(E)(2) of this section, ''significant financial investment'' means having spent at least $100,000 toward vessel conversion and/or gear to change to trawl gear from non-trawl gear, or having acquired groundline, hooks, pots, jig machines, or hauling equipment to change to non-trawl gear from trawl gear.

(4) * * *

(i) *General qualification periods (GQP).* This table provides the GQP documented harvest requirements for LLP groundfish licenses:

| A GROUNDFISH LICENSE WILL BE ASSIGNED... | IF THE REQUIREMENTS FOUND IN THE TABLE AT § 679.4(k)(4)(ii) ARE MET FOR THE AREA ENDORSEMENT AND AT LEAST ONE DOCUMENTED HARVEST OF LICENSE LIMITATION GROUNDFISH WAS CAUGHT AND RETAINED IN... | DURING THE PERIOD... |
|---|---|---|
| (A) One or more area endorsements in the table at § 679.4(k)(4)(ii)(A) or (B) | the BSAI or waters shoreward of the BSAI | (*1*) Beginning January 1, 1988, through June 27, 1992; or<br>(*2*) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or<br>(*3*) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear. |
| (B) One or more area endorsements in the table at § 679.4(k)(4)(ii)(C) through (O) | the GOA or in waters shoreward of the GOA | (*1*) Beginning January 1, 1988, through June 27, 1992; or<br>(*2*) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or<br>(*3*) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest landing of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear. |

(ii) *Endorsement qualification periods (EQP).* This table provides the documented harvest requirements for LLP groundfish license area endorsements:

| A GROUNDFISH LICENSE WILL BE ASSIGNED... | IF... | DURING THE PERIOD... | IN... | FROM A VESSEL IN VESSEL LENGTH CATEGORY... | AND THAT MEETS THE REQUIREMENTS FOR A... |
|---|---|---|---|---|---|
| (A) An Aleutian Island area endorsement | at least one documented harvest of any amount of license limitation groundfish was made. | beginning January 1, 1992, through June 17, 1995. | the Aleutian Islands Subarea or in waters shoreward of that area. | ''A'', ''B'', or ''C'' | catcher/ processor designation or a catcher vessel designation. |
| (B) A Bering Sea area endorsement | at least one documented harvest of any amount of license limitation groundfish was made. | beginning January 1, 1992, through June 17, 1995. | the Bering Sea Subarea or in waters shoreward of that area. | ''A'', ''B'', or ''C'' | catcher/ processor designation or a catcher vessel designation. |
| (C) A Western Gulf area endorsement | at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years. | beginning January 1, 1992, through June 17, 1995. | the Western Area of the Gulf of Alaska or in waters shoreward of that area. | ''A'' | catcher/ processor designation or a catcher vessel designation; or |
| (D) A Western Gulf area endorsement | at least one documented harvest of any amount of license limitation groundfish was made. | beginning January 1, 1992, through June 17, 1995. | the Western Area of the Gulf of Alaska or in waters shoreward of that area. | ''B'' | catcher vessel designation; or |
| (E) A Western Gulf area endorsement | at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years. | beginning January 1, 1992, through June 17, 1995. | the Western Area of the Gulf of Alaska or in waters shoreward of that area. | ''B'' | catcher/processor vessel designation; or |
| (F) A Western Gulf area endorsement | at least four documented harvest of any amount of license limitation groundfish were made. | beginning January 1, 1995, through June 17, 1995. | the Western Area of the Gulf of Alaska or in waters shoreward of that area. | ''B'' | catcher/processor vessel designation; or |
| (G) A Western Gulf area endorsement | at least one documented harvest of any amount of license limitation groundfish was made. | beginning January 1, 1992, through June 17, 1995. | the Western Area of the Gulf of Alaska or in waters shoreward of that area. | ''C'' | catcher/processor designation or a catcher vessel designation. |
| (H) A Central Gulf area endorsement | at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years. | beginning January 1, 1992, through June 17, 1995. | the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district. | ''A'' | catcher/processor designation or a catcher vessel designation; or |
| (I) A Central Gulf area endorsement | at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years. | beginning January 1, 1992, through June 17, 1995. | the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district. | ''B'' | catcher/processor designation or a catcher vessel designation; or |

| A GROUNDFISH LICENSE WILL BE ASSIGNED... | IF... | DURING THE PERIOD... | IN... | FROM A VESSEL IN VESSEL LENGTH CATEGORY... | AND THAT MEETS THE REQUIREMENTS FOR A... |
|---|---|---|---|---|---|
| (J) A Central Gulf area endorsement | at least four documented harvest of any amount of license limitation groundfish were made. | beginning January 1, 1995, through June 17, 1995. | the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district. | ''B'' | catcher/processor designation or a catcher vessel designation; or |
| (K) A Central Gulf area endorsement | at least one documented harvest of any amount of license limitation groundfish was made. | beginning January 1, 1992, through June 17, 1995. | the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district. | ''C'' | catcher/processor designation or a catcher vessel designation. |
| (L) A Southeast Outside area endorsement | at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years. | beginning January 1, 1992, through June 17, 1995. | in the Southeast Outside District or in waters shoreward of that district. | ''A'' | catcher/processor designation or a catcher vessel designation; or |
| (M) A Southeast Outside area endorsement | at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years. | beginning January 1, 1992, through June 17, 1995. | in the Southeast Outside District or in waters shoreward of that district. | ''B'' | catcher/processor designation or a catcher vessel designation; or |
| (N) A Southeast Outside area endorsement | at least four documented harvest of any amount of license limitation groundfish were made. | beginning January 1, 1995, through June 17, 1995. | in the Southeast Outside District or in waters shoreward of that district. | ''B'' | catcher/processor designation or a catcher vessel designation; or |
| (O) A Southeast Outside area endorsement | at least one documented harvest of any amount of license limitation groundfish was made. | beginning January 1, 1992, through June 17, 1995. | in the Southeast Outside District or in waters shoreward of that district. | ''C'' | catcher/processor designation or a catcher vessel designation. |

(iii) An eligible applicant that is issued a groundfish license based on a vessel's qualifications in the table at paragraphs (k)(4)(i)(A)(2) or (k)(4)(i)(B)(2) of this section must choose only one area endorsement for that groundfish license even if documented harvests qualifies the eligible applicant for more than one area endorsement.

(iv) Notwithstanding the provisions in paragraph (k)(4)(i) of this section, NMFS will issue a groundfish license with the appropriate area endorsements to an eligible applicant whose vessel meets the requirements in the table at paragraph (k)(4)(i)(A) of this section, and the requirements in the table at any of the paragraphs (k)(4)(ii)(C) through (O) of this section, except:

(A) From whose vessel no documented harvests were made in the GOA or waters shoreward of the GOA during the period beginning January 1, 1988, through June 27, 1992, and

(B) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1992, through June 17, 1995.

(v) Notwithstanding the provisions in paragraph (k)(4)(i) of this section, a groundfish license with the appropriate area endorsements will be issued to an eligible applicant whose vessel meets the requirements in the tables at paragraphs (k)(4)(i) and (k)(4)(ii) and (A) or (B) of this section, except:

(A) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1988, through June 27, 1992, and

(B) From whose vessel no documented harvests were made in the GOA or waters shoreward of the GOA during the period beginning January 1, 1992, through June 17, 1995.

(5) *Qualification for a crab species license.* A crab species license will be issued to an eligible applicant who owned a vessel that meets the criteria in paragraphs (k)(5)(i), (k)(5)(ii), and (k)(5)(iii) of this section, except that

vessels are exempt from the requirements in paragraph (k)(5)(i) of this section for area/species endorsements at paragraphs (A) and (G) in the table at paragraph (k)(5)(ii) of this section.

(i) *General qualification period (GQP).* To qualify for one or more of the area/species endorsements in the table at paragraph (k)(5)(ii) of this section, the requirements of paragraph (k)(5)(iii) of this section must be met and: * * *

* * * * *

(ii) *Area/species endorsements.* This table provides the documented harvest requirements for LLP crab license area/species endorsements:

| A CRAB SPECIES LICENSE WILL BE ASSIGNED... | IF... | DURING THE PERIOD... | IN... |
|---|---|---|---|
| (A) A Pribilof red king and Pribilof blue king area/species endorsement | at least one documented harvest of red king crab or blue king crab was made by a vessel | beginning January 1, 1993, through December 31, 1994. | the area described in the definition for a Pribilof red king and Pribilof blue king area/species endorsement at § 679.2. |
| (B) A Bering Sea and Aleutian Islands Area *C. opilio* and *C. bairdi* area/species endorsement | at least three documented harvests of *C. opilio* and *C. bairdi* were made by a vessel | beginning January 1, 1992, through December 31, 1994. | the area described in the definition for a Bering Sea and Aleutian Islands Area *C. opilio* and *C. bairdi* area/species endorsement at § 679.2. |
| (C) A St. Matthew blue king area/species endorsement | at least one documented harvest of red king crab or blue king crab was made by a vessel | beginning January 1, 1992, through December 31, 1994. | the area described in the definition for a St. Matthew blue king area/species endorsement at § 679.2. |
| (D) An Aleutian Islands brown king area/species endorsement | at least three documented harvests of brown king crab were made by a vessel | beginning January 1, 1992, through December 31, 1994. | the area described in the definition for an Aleutian Islands brown king area/species endorsement at § 679.2. |
| (E) An Aleutian Islands red king area/species endorsement | at least one documented harvest of red king crab or blue king crab was made by a vessel | beginning January 1, 1992, through December 31, 1994. | the area described in the definition for an Aleutian Islands red king area/species endorsement at § 679.2. |
| (F) A Bristol Bay red king area/species endorsement | at least one documented harvest of red king crab or blue king crab was made by a vessel | beginning January 1, 1991, through December 31, 1994. | the area described in the definition for a Bristol Bay red king area/species endorsement at § 679.2. |
| (G) A Norton Sound red king and blue king area/species endorsement | at least one documented harvest of red king crab or blue king crab was made by a vessel | beginning January 1, 1993, through December 31, 1994. | the area described in the definition for a Norton Sound red king and blue king area/species endorsement at § 679.2. |

(iii) *Recent participation period (RPP).* (A) A person must have made at least one documented harvest of any amount of crab species from a qualifying vessel during the period from January 1, 1996, through February 7, 1998, to qualify for one or more of the area/species endorsements specified at § 679.2.

(B) *Exceptions to the RPP.* A person does not need to meet the documented harvest requirements in paragraph (k)(5)(iii)(A) of this section if he or she deployed a vessel that met the documented harvest requirements in paragraph (k)(5)(i) of this section, if applicable, paragraph (k)(5)(ii) of this section, and:

(*1*) Only qualifies area/species endorsement at paragraph (G) in the table at paragraph (k)(5)(ii).

(*2*) Those documented harvests were made from a vessel that meets the requirements for vessel length category ''C''.

(3) The vessel used to meet the document harvest requirements in paragraphs (k) (5) (i) and (k) (5) (ii) of this section was lost or destroyed, and he or she made a documented harvest of crab species any time during the period beginning after the vessel was lost or destroyed but before January 1, 2000.

(iv) *Exception to the complete fishing history earned on one vessel.* A person who can demonstrate that his or her vessel made a documented harvest of crab species during the period from January 1, 1998, through February 7, 1998, and who obtains the fishing history of a vessel that meets the documented harvest requirements of paragraphs (k)(5)(i) and (k)(5)(ii) of this section, or who entered into a contract to obtain the fishing history of a vessel that meets the documented harvest requirements of paragraphs (k)(5)(i) and (k)(5)(ii) of this section by 8:36 am Pacific standard time on October 10, 1998, is exempted from the requirement of having a complete fishing history earned on one vessel.

(v) A qualified person who owned a vessel on June 17, 1995, that met the requirements in paragraphs (k)(5)(i) and (ii) of this section, but whose vessel was unable to meet requirements of paragraph (k)(5)(iii) of this section because of unavoidable circumstances (i.e., the vessel was lost damaged, or otherwise unable to participate in the license limitation crab fisheries) may receive a license if the qualified person is able to demonstrate that:

(A) The owner of the vessel at the time of the unavoidable circumstance held a specific intent to conduct fishing for license limitation crab species with that vessel during a specific time period in a specific area;

(B) The specific intent to conduct directed fishing for license limitation crab species was thwarted by a circumstance that was:

(*1*) Unavoidable;

(*2*) Unique to the owner of that vessel, or unique to that vessel; and

(*3*) Unforeseen and reasonably unforeseeable to the owner of the vessel;

(C) The circumstance that prevented the owner from conducting directed fishing for license limitation crab species actually occurred;

(D) Under the circumstances, the owner of the vessel took all reasonable steps to overcome the circumstances that prevented the owner from conducting directed fishing for license limitation crab species; and

(E) Any amount of license limitation crab species was harvested on the vessel after the vessel was prevented from participating but before January 1, 2000.

(vi) A groundfish license or crab species license may be used on a vessel that is named on the license, that complies with the vessel designation, and that does not exceed the MLOA on the license.

(6) * * *

(iv) * * *

(D) *Unavoidable circumstances.* If a person is claiming that unavoidable circumstances prevented him or her from meeting certain eligibility requirements for a license under paragraph (k) of this section, he or she must provide the information required in the particular paragraph of this section authorizing such a claim, and include valid evidence of the date the vessel was lost, damaged, or otherwise unable to participate in the fishery, and the date a documented harvest was made after the vessel was unable to participate in the fishery by the unavoidable circumstance.

* * * * *

(7) * * *

(ix) *Other transfer restrictions.* The transfer of a LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, must be accompanied by the vessel from which the documented harvests were made or its replacement vessel, or if the LLP license and vessel were separated by transfer prior to February 7, 1998, then by the vessel that is currently being deployed by the license holder. The Regional Administrator will deny a transfer application that requests the transfer of a LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, if the appropriate vessel is not being transferred as part of the same transaction. A license holder of an LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, may replace the vessel from which the documented harvests were made with another vessel that meets the vessel designation and MLOA requirements specified on the LLP license if the original qualifying vessel is lost or destroyed.

* * * * *

3. In § 679.7, paragraph (i)(6) is revised and paragraph (i)(9) is added to read as follows:

**§ 679.7 Prohibitions.**

(i) * * *

(6) Use a vessel to fish for LLP groundfish or crab species, or allow a vessel to be used to fish for LLP groundfish or crab species, that has an LOA that exceeds the MLOA specified on the license that authorizes fishing for LLP groundfish or crab species.

* * * * *

(9) Use a vessel to fish for LLP groundfish or crab species, or allow a vessel to be used to fish for LLP groundfish or crab species, other than the vessel named on the license that authorizes fishing for LLP groundfish or crab species.

* * * * *

[FR Doc. 01–23467 Filed 9–21–01; 8:45 am]

BILLING CODE 3510–22–S

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 010112013–1013-01; I.D. 091801A]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands

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

**ACTION:** Closure and notice of opening.

**SUMMARY:** NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2001 total allowable catch (TAC) of Atka mackerel. NMFS is also opening fishing with trawl gear in Steller sea lion critical habitat in the Central Aleutian District for species for which directed fisheries are open.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 18, 2001, until 2400 hrs, A.l.t., December 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and at 50 CFR part 679.

The 2001 Atka mackerel TAC in the Central Aleutian District of the BSAI is 31,080 metric tons (mt) as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2001 Atka mackerel TAC in the Central Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 30,880 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

On September 9, 2001, NMFS prohibited trawling within Steller sea lion critical habitat in the Central Aleutian District because the allowable harvest of Atka mackerel in the Steller Sea lion protection areas in the Central Aleutian District had been reached (66 FR 47418, September 12, 2001). Regulations at 679.22(a)(12)(iii)(C) authorize opening Steller sea lion critical habitat in the Central Aleutian District to fishing with trawl gear after NMFS closes Atka mackerel to directed fishing within that district. Therefore, NMFS is opening critical habitat in the Central Aleutian District to fishing with trawl gear for species open to directed fishing.

### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the 2001 Atka mackerel TAC in the Central Aleutian District of the BSAI constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the 2001 Atka mackerel TAC in the Central

Aleutian District of the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. In addition, this action relieves a restriction by opening critical habitat in the Central Aleutian District to fishing with trawl gear for species open to directed fishing. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by §§ 679.20 and 679.22 and is exempt from review under Executive Order 12866.

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

Dated: September 18, 2001.

**Richard W. Surdi,**

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

[FR Doc. 01–23704 Filed 9–18–01; 4:18 pm]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 010112013–1013–01; I.D. 091901A]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting retention of Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of Pacific ocean perch in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the amount of the 2001 total allowable catch (TAC) of Pacific ocean perch in this area has been achieved.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 19, 2001, until 2400 hrs, A.l.t., December 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 2001 TAC of Pacific ocean perch in the Central Aleutian District of the BSAI was established as 2,368 metric tons by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the amount of the 2001 TAC for Pacific ocean perch in the Central Aleutian District of the BSAI has been achieved. Therefore, NMFS is requiring that further catches of Pacific ocean perch in the Central Aleutian District of the BSAI be treated as prohibited species in accordance with § 679.21(b).

### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds the need to immediately implement this action because the amount of the 2001 TAC for Pacific ocean perch in the Central Aleutian District of the BSAI has been achieved constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion because the amount of the 2001 TAC for Pacific ocean perch in the Central Aleutian District of the BSAI has been achieved constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: September 19, 2001.

**Richard W. Surdi,**

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

[FR Doc. 01–23798 Filed 9–19–01; 4:32 pm]

BILLING CODE 3510–22–S

# Proposed Rules

Federal Register
Vol. 66, No. 185
Monday, September 24, 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.

## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2608

**RIN 3209–AA23**

### Testimony by OGE Employees and Production of Official Records in Legal Proceedings

**AGENCY:** U.S. Office of Government Ethics (OGE).

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Government Ethics seeks public comment on a proposed rule that would set forth procedures that requesters would have to follow when making demands or requests to an OGE employee to produce official records and information, and provide testimony relating to official information, in connection with a legal proceeding in which OGE is not a party. As proposed, this rule would establish procedures to respond to such demands and requests in an orderly and consistent manner. The proposed rule, among other benefits, will promote uniformity in decisions, protect confidential information, provide guidance to requesters, and reduce the potential for both inappropriate disclosures of official information and wasteful allocation of agency resources.

**DATES:** Comments must be received on or before November 23, 2001.

**ADDRESSES:** Send comments to William E. Gressman, Senior Associate General Counsel, Office of General Counsel & Legal Policy, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917.

**FOR FURTHER INFORMATION CONTACT:** William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, telephone: 202–208–8000; TDD: 202–208–8025; FAX: 202–208–8037; Internet E-mail address: usoge@oge.gov. For E-mail messages, the subject line should include the following reference: Proposed Rule on Testimony by OGE Employees and Production of Official Records in Legal Proceedings.

**SUPPLEMENTARY INFORMATION:**

## Background

The Office of Government Ethics occasionally receives subpoenas and requests for OGE employees to provide evidence in litigation in which OGE is not a party. Typically, these subpoenas and requests are for OGE records that are not available to the public under the Freedom of Information Act. Also, OGE sometimes receives subpoenas and requests for OGE employees to appear as witnesses in litigation in conjunction with a request for nonpublic records. Requesters have sought information, for example, on a particular filer of a financial disclosure report, a particular nominee or incumbent or former employee and for any ethics advice that OGE may have given to that individual, or concerning the nature of ethical advice that OGE gave to another agency and how OGE arrived at that advice.

Responding to such demands and requests sometimes results in a significant disruption in an OGE employee's work schedule. The result is that employees may be diverted from performing their official duties in order to respond to requests from parties in litigation. In order to address this problem, many agencies over the years have issued *''Touhy''* regulations that are similar to this proposed regulation, governing the circumstances and manner in which an employee may respond to demands for testimony or for the production of documents. Such a regulation was upheld by the United States Supreme Court in *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951).

In *Touhy,* the Supreme Court held that a Department of Justice (DOJ) official, acting on order of the Attorney General, could not be held in contempt for declining to produce records in response to a subpoena. The employee's refusal was based upon a DOJ regulation that prohibited disclosure of agency files, documents, records, or information without the express approval of the Attorney General. The Court upheld the validity of the DOJ regulation, reasoning that it was appropriate for the Attorney General to prescribe regulations not inconsistent with law for the custody, use, and preservation of records, papers, and property pertaining to the Department of Justice.

Briefly summarized, the proposed rule would prohibit disclosure of nonpublic official records or testimony by OGE employees unless there is compliance with the rule (§§ 2608.201 and 2608.203). The proposed rule identifies the factors that OGE will consider in making determinations in response to such requests and what information requesters must provide (§§ 2608.202 and 2608.203). The proposed rule also specifies when the request should be submitted (§ 2608.203), the time period for review (§ 2608.205), potential fees (§ 2608.301), and, if a request is granted, any restrictions that may be placed on the disclosure of records or the appearance of an OGE employee as a witness (§§ 2608.207 and 2608.208). The proposed charges for witnesses are the same as those provided by the Federal courts; and the fees related to production of records are the same as those charged under FOIA. The proposed charges for time spent by an employee to prepare for testimony and for certification of records by OGE are authorized under 31 U.S.C. 9701, which permits an agency to charge for services or things of value that are provided by the agency.

The proposed rule applies to a broad range of matters in any legal proceeding in which OGE is not a named party. It also applies to former and current OGE employees (as well as OGE consultants and advisers). Former employees are prohibited from testifying about specific matters for which they had responsibility during their active employment unless permitted to testify as provided in the proposed rule. They would not be barred from appearing to testify about general matters unconnected with the specific matters for which they had responsibility.

The proposed regulation will ensure a more efficient use of OGE resources, minimize the possibility of involving OGE in issues unrelated to its responsibilities, promote uniformity in responding to such requests and subpoenas, and maintain the impartiality of OGE in matters that are in dispute between other parties. It also would serve OGE's interest in protecting sensitive, confidential, and privileged information and records that are generated in response to the requirements in the ethics laws and regulations.

The proposed OGE rule is internal (not branchwide), and is essentially procedural, not substantive. It would not create a right to obtain official records or the testimony of an OGE employee nor would it create any additional right or privilege not already available to OGE to deny any demand or request therefor. However, failure to comply with the procedures in the proposed rule would be a basis for denying a demand or request submitted to OGE.

**Matters of Regulatory Procedure**

*Administrative Procedure Act*

This proposed rulemaking is in compliance with the Administrative Procedure Act (5 U.S.C. 553) and allows for a 60-day comment period. Interested persons are invited to submit written comments to OGE on this proposed regulation, to be received on or before November 23, 2001. The Office of Government Ethics will review all comments received and consider any modifications to this proposal which appear warranted in issuing its final rule.

*Regulatory Flexibility Act*

For purposes of the Regulatory Flexibility Act (5 U.S.C. chapter 6), the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rule addresses only the procedures to be followed in the production or disclosure of OGE materials and information in litigation where OGE is not a party. Accordingly, OGE has determined that a Regulatory Flexibility Analysis is not required.

*Unfunded Mandates Reform Act*

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), the proposed rule would not significantly or uniquely affect small governments and would not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation).

*Executive Order 12866*

In issuing this proposed regulation, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation as set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This proposed rule has not been reviewed by the Office of Management and Budget under that Executive order since it is not a significant regulatory action within the meaning of the Executive order.

*Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this proposed regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

*Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this proposed regulation does not contain information collection requirements that require approval by the Office of Management and Budget. The Office of Government Ethics expects the collection of information that is called for by the proposed regulation would involve fewer than ten persons each year.

*Congressional Review Act*

The Office of Government Ethics has determined that this proposed rulemaking involves a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will, before the future final rule takes effect, provide a report thereon to the U.S. Senate, House of Representatives and General Accounting Office in accordance with that law.

**List of Subjects in 5 CFR Part 2608**

Administrative practice and procedure, Conflict of interests, Courts, Government employees, Records, Subpoenas, Testimony.

Approved: September 18, 2001.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics proposes to add a new part 2608 to 5 CFR to read as follows:

## PART 2608—TESTIMONY BY OGE EMPLOYEES AND PRODUCTION OF OFFICIAL RECORDS IN LEGAL PROCEEDINGS

### Subpart A—General Provisions

Sec.
2608.101 Scope and purpose.
2608.102 Applicability.
2608.103 Definitions.

### Subpart B—Requests for Testimony and Production of Documents

2608.201 General prohibition.
2608.202 Factors OGE will consider.
2608.203 Filing requirements for demands or requests for documents or testimony.
2608.204 Service of subpoenas or requests.
2608.205 Processing demands or requests.
2608.206 Final determination.
2608.207 Restrictions that apply to testimony.
2608.208 Restrictions that apply to released records.
2608.209 Procedure when a decision is not made prior to the time a response is required.
2608.210 Procedure in the event of an adverse ruling.

### Subpart C—Schedule of Fees

2608.301 Fees.

### Subpart D—Penalties

2608.401 Penalties.

**Authority:** 5 U.S.C. App. (Sec. 401, Ethics in Government Act of 1978); 44 U.S.C. 3101–3107, 3301–3303a, 3308–3314.

## Subpart A—General Provisions

### § 2608.101 Scope and purpose.

(a) This part sets forth policies and procedures you must follow when you submit a demand or request to an employee of the Office of Government Ethics (OGE) to produce official records and information, or provide testimony relating to official information, in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of official records and information.

(b) The Office of Government Ethics intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize the possibility of involving OGE in controversial issues not related to our functions;

(3) Maintain OGE's impartiality among private litigants where OGE is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of OGE.

(c) In providing for these requirements, OGE does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of OGE. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

### § 2608.102 Applicability.

This part applies to demands and requests to employees for factual or expert testimony relating to official information, or for production of official records or information, in legal proceedings in which OGE is not a named party. However, it does not apply to:

(a) Demands upon or requests for an OGE employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of OGE;

(b) Demands upon or requests for a former OGE employee to testify as to matters in which the former employee was not directly or materially involved while at the OGE;

(c) Requests for the release of records under the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a; and

(d) Congressional demands and requests for testimony or records.

### § 2608.103 Definitions.

*Demand* means a subpoena, or an order or other command of a court or other competent authority, for the production, disclosure, or release of records or for the appearance and testimony of an OGE employee that is issued in a legal proceeding.

*General Counsel* means the General Counsel of OGE or a person to whom the General Counsel has delegated authority under this part.

*Legal proceeding* means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer, or other body that conducts a legal or administrative proceeding. Legal proceeding includes all phases of litigation.

*OGE* means the U.S. Office of Government Ethics.

*OGE employee or employee* means:

(1) Any current or former officer or employee of OGE;

(2) Any other individual hired through contractual agreement by or on behalf of the OGE or who has performed or is performing services under such an agreement for OGE; and

(3) Any individual who served or is serving in any consulting or advisory capacity to OGE, whether formal or informal.

(4) Provided, that this definition does not include persons who are no longer employed by OGE and who are retained or hired as expert witnesses or who agree to testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment with OGE.

*Records or official records and information* mean:

(1) All documents and materials which are OGE agency records under the Freedom of Information Act, 5 U.S.C. 552;

(2) All other documents and materials contained in OGE files; and

(3) All other information or materials acquired by an OGE employee in the performance of his or her official duties or because of his or her official status.

*Request* means any informal request, by whatever method, for the production of records and information or for testimony which has not been ordered by a court or other competent authority.

*Testimony* means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, recorded interviews, and statements made by an individual in connection with a legal proceeding.

## Subpart B—Requests for Testimony and Production of Documents

### § 2608.201 General prohibition.

No employee may produce official records and information or provide any testimony relating to official information in response to a demand or request without the prior, written approval of the General Counsel.

### § 2608.202 Factors OGE will consider.

The General Counsel, in his or her sole discretion, may grant an employee permission to testify on matters relating to official information, or produce official records and information, in response to a demand or request. Among the relevant factors that the General Counsel may consider in making this decision are whether:

(a) The purposes of this part are met;

(b) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(c) OGE has an interest in the decision that may be rendered in the legal proceeding;

(d) Allowing such testimony or production of records would assist or hinder OGE in performing its statutory duties or use OGE resources where responding to the request will interfere with the ability of OGE employees to do their work;

(e) Allowing such testimony or production of records would be in the best interest of OGE or the United States;

(f) The records or testimony can be obtained from other sources;

(g) The demand or request is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand or request arose;

(h) Disclosure would violate a statute, Executive order or regulation;

(i) Disclosure would reveal confidential, sensitive, or privileged information, trade secrets or similar, confidential commercial or financial information, or would otherwise be inappropriate for release;

(j) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceedings, or compromise constitutional rights;

(k) Disclosure would result in OGE appearing to favor one litigant over another;

(l) Disclosure relates to documents that were produced by another agency;

(m) A substantial Government interest is implicated;

(n) The demand or request is within the authority of the party making it; and

(o) The demand or request is sufficiently specific to be answered.

### § 2608.203 Filing requirements for demands or requests for documents or testimony.

You must comply with the following requirements whenever you issue demands or requests to an OGE employee for official records and information or testimony.

(a) Your request must be in writing and must be submitted to the General Counsel. If you serve a subpoena on OGE or an OGE employee before submitting a written request and receiving a final determination, OGE will oppose the subpoena on grounds that your request was not submitted in accordance with this subpart.

(b) Your written request must contain the following information:

(1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;

(2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance;

(3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;

(4) A statement as to how the need for the information outweighs the need to maintain any confidentiality of the information and outweighs the burden on OGE to produce the records or provide testimony;

(5) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than an OGE employee, such as a retained expert;

(6) If testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony;

(7) A description of all prior decisions, orders, or pending motions in the case that bear upon the relevance of the requested records or testimony;

(8) The name, address, and telephone number of counsel to each party in the case; and

(9) An estimate of the amount of time that the requester and other parties will require with each OGE employee for time spent by the employee to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) The Office of Government Ethics reserves the right to require additional information to complete your request where appropriate.

(d) Your request should be submitted at least 45 days before the date that records or testimony is required. Requests submitted in less than 45 days before records or testimony is required must be accompanied by a written explanation stating the reasons for the late request and the reasons for expedited processing.

(e) Failure to cooperate in good faith to enable the General Counsel to make an informed decision may serve as the basis for a determination not to comply with your request.

**§ 2608.204 Service of subpoenas or requests.**

Subpoenas or requests for official records or information or testimony must be served on the General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917.

**§ 2608.205 Processing demands or requests.**

(a) After service of a demand or request to testify, the General Counsel will review the demand or request and, in accordance with the provisions of this subpart, determine whether, or under what conditions, to authorize the employee to testify on matters relating to official information and/or produce official records and information.

(b) The Office of Government Ethics will process requests in the order in which they are received. Absent exigent or unusual circumstances, OGE will respond within 45 days from the date that we receive it. The time for response will depend upon the scope of the request.

(c) The General Counsel may grant a waiver of any procedure described by this subpart where a waiver is considered necessary to promote a significant interest of OGE or the United States or for other good cause.

**§ 2608.206 Final determination.**

The General Counsel makes the final determination on demands and requests to employees for production of official records and information or testimony. All final determinations are within the sole discretion of the General Counsel. The General Counsel will notify the requester and the court or other authority of the final determination, the reasons for the grant or denial of the demand or request, and any conditions that the General Counsel may impose on the release of records or information, or on the testimony of an OGE employee.

**§ 2608.207 Restrictions that apply to testimony.**

(a) The General Counsel may impose conditions or restrictions on the testimony of OGE employees including, for example, limiting the areas of testimony or requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which testimony was requested. The General Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) The Office of Government Ethics may offer the employee's written declaration in lieu of testimony.

(c) If authorized to testify pursuant to this part, an employee may testify as to facts within his or her personal knowledge, but, unless specifically authorized to do so by the General Counsel, the employee shall not:

(1) Disclose confidential or privileged information;

(2) Testify as to facts when the General Counsel determines such testimony would not be in the best interest of OGE or the United States; or

(3) For a current OGE employee, testify as an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of OGE unless testimony is being given on behalf of the United States (see also § 2635.805 of this chapter).

**§ 2608.208 Restrictions that apply to released records.**

(a) The General Counsel may impose conditions or restrictions on the release of official records and information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, OGE may condition the release of official records and information on an amendment to the existing protective order or confidentiality agreement.

(b) If the General Counsel so determines, original OGE records may be presented for examination in response to a demand or request, but they are not to be presented as evidence or otherwise used in a manner by which they could lose their identity as official OGE records, nor are they to be marked or altered. In lieu of the original records, certified copies will be presented for evidentiary purposes (see 28 U.S.C. 1733).

**§ 2608.209 Procedure when a decision is not made prior to the time a response is required.**

If a response to a demand or request is required before the General Counsel can make the determination referred to in § 2608.201, the General Counsel will provide the court or other competent authority with a copy of this part, inform the court or other competent authority that the demand or request is being reviewed, and seek a stay of the demand or request pending a final determination.

**§ 2608.210 Procedure in the event of an adverse ruling.**

If the court or other competent authority fails to stay the demand, the employee upon whom the demand is made will appear at the stated time and place, produce a copy of this part, state that the employee has been advised by counsel not to provide the requested testimony or produce documents, and respectfully decline to comply with the demand, citing *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951). A written response may be offered to a request, or to a demand, if permitted by the court or other competent authority.

## Subpart C—Schedule of Fees

**§ 2608.301 Fees.**

(a) *Generally.* The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to OGE.

(b) *Fees for records.* Fees for producing records will include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the demand or request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time will be calculated on the basis of the hourly pay of the employee (including all pay, allowance, and benefits). Fees for duplication will be the same as those charged by OGE in its Freedom of Information Act and Ethics in Government Act fee regulations at 5 CFR part 2604 (subparts E and G).

(c) *Witness fees.* Fees for attendance by a witness will include fees, expenses,

and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear. Such fees will include cost of time spent by the witness to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) *Payment of fees.* You must pay witness fees for current OGE employees and any records certification fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony by former OGE employees, you must pay applicable fees directly to the former employee in accordance with 28 U.S.C. 1821 or other applicable statutes.

(d) *Certification (authentication) of copies of records.* The Office of Government Ethics may certify that records are true copies in order to facilitate their use as evidence. If you seek certification, you must request certified copies from OGE at least 45 days before the date they will be needed. The request should be sent to the General Counsel. You will be charged a certification fee of $15.00 for each document certified.

(e) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(f) *De minimis fees.* Fees will not be assessed if the total charge would be $10.00 or less.

## Subpart D—Penalties

### § 2608.401 Penalties.

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by OGE or as ordered by a Federal court after OGE has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Additionally, former OGE employees are subject to the restrictions and penalties of 18 U.S.C. 207 and 216.

(b) A current OGE employee who testifies or produces official records and information in violation of this part shall be subject to disciplinary action.

[FR Doc. 01–23771 Filed 9–21–01; 8:45 am]

BILLING CODE 6345–01–U

## NUCLEAR REGULATORY COMMISSION

## 10 CFR Parts 2, 50, 51, and 52

**[Docket No. PRM–52–2]**

## Nuclear Energy Institute; Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of receipt.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated July 18, 2001, which was filed with the Commission by the Nuclear Energy Institute (NEI). The petition was docketed by the NRC on July 24, 2001, and has been assigned Docket No. PRM–52–2. The petition requests that the NRC eliminate the requirement that an early site permit applicant evaluate, and that the NRC review, alternative sites, and remove provisions regarding the siting, construction, and operation of nuclear power plants which require applicants and licensees to analyze, and the NRC to evaluate, alternative sites, alternative energy sources, and the need for power.

**DATES:** Submit comments by November 8, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration can only be given to comments received on or before this date.

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

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

For a copy of the petition, write to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

You may also provide comments via the NRC's interactive rulemaking website at http://ruleforum.llnl.gov. This site allows you to upload comments as files in any format, if your web browser supports the function. The petition and any public comments received are available on the site. For information about the interactive rulemaking website, contact Carol Gallagher at (301) 415–5905 or via e-mail at *cag@nrc.gov.*

The petition and copies of comments received may be inspected, and copied for a fee, at the NRC Public Document Room, (first floor) 11555 Rockville Pike, Rockville, Maryland.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–7163 or Toll-free: 1–800–368–5642. E-mail: *MTL@NRC.GOV.*

**SUPPLEMENTARY INFORMATION:**

### Background

The Nuclear Regulatory Commission received a petition for rulemaking dated July 18, 2001, submitted by the Nuclear Energy Institute (the petitioner). The petition was docketed by the NRC on July 24, 2001, and has been assigned Docket No. PRM–52–2.

### The Petitioner

The petitioner (the Nuclear Energy Institute or NEI) claims representational responsibility for coordinating the combined efforts of all utilities licensed by the NRC to construct or operate nuclear power plants, and of other nuclear industry organizations, in all matters involving generic regulatory policy issues and regulatory aspects of generic operational and technical issues affecting the nuclear power industry.

### The Petitioner's Request

The petitioner believes that the NRC, in implementing the National Environmental Policy Act of 1969 (NEPA), has imposed requirements on the content of environmental impact reviews that are unnecessary under the statute, unduly burdensome to both industry and the NRC, and outside the scope of the agency's mission. Specifically, the petitioner requests that the NRC amend part 52, subpart A, *Early Site Permits,* §§ 52.17(a)(2) and 52.18, to remove provisions that the petitioner believes are more appropriately dealt with through the application of 10 CFR part 51, *National Environmental Policy Act—Regulations Implementing Sec. 102(2).* The petitioner further requests that the NRC amend 10 CFR part 51 and revise associated NRC regulations and guidance regarding the siting, construction, operation, and license renewal of nuclear power plants (*e.g.,* 10 CFR part 51, appendix A to subpart A) to remove the requirement for applicants and licensees to conduct an analysis of and for the NRC to evaluate alternative sites, alternative sources of energy, and the need for power. The petitioner emphasizes that its proposed amendments would not affect any other required reviews of matters pertinent to

the NRC's responsibilities (*e.g.,* seismology, hydrology, meteorology, endangered species, water use, thermal discharges).

The petitioner contends that although NEPA requires consideration of ''alternatives'' to proposed actions, it does not specifically require alternative site reviews. The petitioner cites several NRC regulations that specify that an alternative site review must be conducted, including 10 CFR 2.101(a)(3)(ii), 2.101(a-1)(1), 2.603(b)(1), 2.605(b)(1), 52.17(a)(2), and 52.18; 10 CFR Part 50, Appendix Q.2 and 7; 10 CFR Part 52, Appendix Q.2 and 7. Similarly, the petitioner claims that NEPA does not specifically require an analysis of alternative sources of energy or of the need for power. However, the NRC's implementing regulations in 10 CFR part 51 currently require that those matters be addressed. General guidance on how environmental reviews are to be conducted is provided in Regulatory Guide 4.2, ''Preparation of Environmental Reports for Nuclear Power Plants'' (July 1976), and in NUREG–1555, ''Environmental Standard Review Plan'' (March 2000), which, the petitioner notes, also call for a review of alternative sites, alternative energy sources, and need for power.

The petitioner contends that the NRC has the statutory authority to revise its regulations to eliminate the NRC's review of such issues. The petitioner also cites a February 28, 2001, letter from NRC Chairman Meserve to Senator Domenici, Chairman of the U.S. Senate Committee on Appropriations Subcommittee on Energy and Water Development, which states that the evaluation of alternative sites, alternative sources of power, and the need for generating capacity are matters ''that are distant from NRC's mission.'' The petitioner argues that the Commission can and should conclude that, because of the fundamental changes that have occurred in the electricity market, these reviews are no longer required in the NRC's implementation of NEPA.

**Justification for the Petition**

*NEPA Requirements*

The petitioner begins by reviewing the provisions of NEPA and their application in NRC proceedings concerning the siting, construction, and operation of nuclear power plants. The petitioner notes that Section 102(2)(C) of NEPA requires Federal agencies, as part of the decision-making process, to prepare an analysis weighing the environmental costs and benefits of all ''major Federal actions significantly affecting the quality of the human environment.'' The ''detailed statement'' that the agency is required to prepare and publicly disclose must evaluate: the environmental impacts of the proposed action; any adverse environmental effects which cannot be avoided should the proposal be implemented; alternatives to the proposed action; the relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity; and any irreversible and irretrievable commitments of resources that would be involved if the proposed action were to be implemented.

The petitioner further notes that the environmental report submitted with an application requesting NRC action serves as the basis for the NRC's evaluation of the environmental impacts of major agency decisions—*e.g.,* to issue or deny a permit or license as applied for, or to impose terms or conditions upon a permit or license in light of the NEPA review.

*The Role of State and Local Governments*

The petitioner then addresses the relative jurisdictions of the NRC and State and local governments with respect to the location, construction, and operation of electric power plants. The petitioner points out that the NRC's licensing process does not change the division of authority between the Federal Government and the States over the siting of electric generating facilities. The petitioner argues that an NRC license or permit constitutes approval of a site or plant only under the Federal statutes and regulations administered by the NRC, not under other applicable laws. By way of example, the petitioner notes that individual State laws may require a State determination of the need for power and an evaluation of alternative energy sources, or may require the issuance of a certificate of public convenience and necessity, as well as various environmental permits. The petitioner further notes that local zoning laws may control how a potential site is used.

*Legal and Regulatory Basis of State Primacy.* The petitioner claims that Section 271 of the Atomic Energy Act explicitly preserves State authority over the generation, sale, and transmission of electric power produced by nuclear plants (42 U.S.C. sec. 2018). The petitioner says that, based on this provision and clear Congressional intent, the Supreme Court has held that States have jurisdiction over ''the need for additional generating capacity, the type of generating capacity to be licensed, land use, ratemaking, and the like'' (*Pacific Gas & Electric Co.* v. *State Energy Resources Conservation and Development Comm.,* 461 U.S. 190, 1983).

According to the petitioner, the NRC itself explicitly recognized the limited extent of its authority in the evaluation of alternatives in Footnote 4 to 10 CFR 51.71(e), *Preliminary Recommendation,* which reads: ''The consideration of reasonable alternatives to a proposed action involving nuclear power reactors (*e.g.,* alternative energy sources) is intended to assist the NRC in meeting its NEPA obligations and does not preclude any State authority from making separate determinations with respect to these alternatives and in no way preempts, displaces, or affects the authority of States or other Federal agencies to address these issues.''

*Persistent State Concerns about the License Renewal Process.* The petitioner claims that many States nonetheless expressed concern that the NRC's findings in license renewal proceedings, even though not legally dispositive, would establish an official Federal position that would be difficult to rebut in State proceedings. Specifically, the States expressed concern that the NRC's consideration of the need for power and alternative energy sources in the license renewal Generic Environmental Impact Statement (NUREG 1437, Chapters 8 and 9), and associated proposed amendments to part 51, would infringe on State jurisdiction over economic regulation of electric utilities.

*The NRC's Response to State Concerns.* The petitioner states that the NRC issued a supplement to its proposed license renewal rule in order to address the States' concerns and respond to questions raised by the U.S. Environmental Protection Agency and the Council for Environmental Quality. The petitioner says that this supplement addressed whether, under NEPA, the NRC could and should remove from its consideration issues over which States have primary jurisdiction. The petitioner claims that in the supplement the NRC, having reconsidered its NEPA responsibilities with respect to license renewal, correctly (1) recognized the primacy of State regulatory decisions regarding future energy options, (2) acknowledged that the choice of energy options will be made by the electricity generating company, and (3) stated that the purpose of the major Federal action in license renewal proceedings is ''* * * to preserve the option of continued operation of the nuclear power plant for State regulatory and utility officials in their future energy planning decisions.''

*The Major Federal Action in License Renewal Proceedings.* The petitioner emphasizes that the NRC concluded in this supplement that the proposed major Federal action in license renewal proceedings does not involve deciding whether the plant seeking license renewal is at the best possible site or whether there is or will be a need for the power generated by the plant. The petitioner says that the NRC's definition of the proposed Federal action in the supplement accurately reflects what is really at issue in license renewal proceedings, namely, the establishment of a stable and predictable regulatory approach to determining whether the option of nuclear power as a source of generating capacity at a given site can be considered in future State energy planning decisions. The petitioner concludes that the NRC can reasonably consider only two basic alternatives in such proceedings: the agency may either renew the license and preserve the nuclear option at that particular site, or decline to renew the license (59 FR 37725; July 25, 1994).

The petitioner concedes that the NRC decided to examine alternative sources of future generating capacity as part of its NEPA review in the license renewal context. The petitioner believes that the NRC should reconsider that decision on the grounds that it is fundamentally inconsistent with related NRC decisions.

*Application of NEPA to the Siting, Construction, and Operation of Nuclear Power Plants*

The petitioner believes that future plants will be licensed under Part 52, but stresses that the elimination of NRC requirements concerning need for power, alternative sources and alternative sites is appropriate regardless of whether plants are licensed under Part 52 or Part 50, and asks that its analysis be read accordingly.

*The Role of Early Site Permits.* The provisions of Subpart A of 10 CFR part 52 apply to applicants seeking an early site permit (ESP) separate from an application for a construction permit or a combined license for a nuclear power plant. According to the petitioner, the basic purpose of Subpart A, consistent with all of Part 52, is to resolve all site suitability issues in a licensing proceeding as early as possible, before large commitments of resources are made. The petitioner states that the importance of raising and resolving all environmental issues as part of the ESP proceeding is recognized in 10 CFR 52.39(a)(2), *Finality of early site permit determinations,* which reads in part: ''In making the findings required for the issuance of a construction permit, operating license, or combined license, or the findings required by § 52.103 of this part, if the application for the construction permit, operating license, or combined license references an early site permit, *the Commission shall treat as resolved those matters resolved in a proceeding on the application for issuance or renewal of an early site permit * * *''* (emphasis added by the petitioner).

*NEPA Review in 10 CFR Part 52.* The petitioner states that, at the time Part 52 was promulgated, the NRC staff felt it was necessary to include language that further refined its interpretation of the scope of the agency's NEPA review. The petitioner says that the first change clarified that a need-for-power analysis need not be included in the environmental report that is part of the early site permit (ESP) application, but could be deferred until the combined license (COL) stage. The second change related to performing an alternative site analysis. According to the petitioner, because early site permitting is a siting decision, the NRC revised Part 52 to state explicitly that an alternative site analysis was necessary at the ESP stage to determine if there is an ''obviously superior'' (§ 52.18) alternative to the site proposed. As a result, 10 CFR 52.17(a)(2) and 52.18 provide that the environmental report for an ESP need not include an assessment of the need for power, but must include an evaluation of alternative sites.

The petitioner contends that the provisions of Part 52 relative to alternative site reviews are based on an interpretation of NEPA that is neither necessary, nor desirable, nor reflective of the evolving electricity marketplace.

*Definition of the Major Federal Action in ESP and COL Proceedings.* The petitioner notes that, in the context of an ESP, the proposed ''major Federal action'' is the granting of a permit for a site for one or more nuclear power plants. To actually build and operate one or more nuclear plants on that site, an applicant must also obtain a combined license (COL). In a COL proceeding, the petitioner says, the proposed ''major Federal action'' is the approval to build and subsequently operate a particular nuclear plant at a specified site. If the COL references an ESP, the site approval is already established, and the site suitability issue reduces to whether the proposed nuclear power plant(s) fit within the ESP's environmental envelope. The petitioner claims that, if the COL applicant does not reference an ESP, the ''major Federal action'' with respect to approving the specified site is the same as for an ESP. The petitioner emphasizes that in *none* of these cases (i.e., ESP or COL with or without a referenced ESP) is the proposed action a matter of deciding whether there is a need for power, whether an applicant should select a different site, or which of various possible sources of electric generating capacity best meets the State's or the region's needs, provides the most economic electricity to ratepayers, or is environmentally most benign.

*The Applicant's Goal.* The petitioner contends that its proposal to eliminate consideration of such alternatives by the NRC is based on a fundamental principle of NEPA law, namely, that an agency need only consider alternatives that will accomplish the applicant's goal. The petitioner says that the ESP applicant's goal is to determine whether the proposed site satisfies statutory and NRC regulatory requirements as a suitable location for a nuclear power plant. Similarly, the petitioner says, the goal of a COL applicant is to determine whether the proposed plant satisfies applicable safety and environmental requirements, including the criteria established in any referenced ESP. The petitioner therefore concludes that the only site suitability issue before the NRC in either an ESP or COL proceeding is whether that site is suitable for one or more nuclear facilities. Thus, alternative sites are not ''reasonable alternatives'' under NEPA and need not be addressed in ESP and COL applications.

Under NEPA, the NRC must consider the no-action alternative and any actions that could mitigate the environmental impact of the proposed plant. The petitioner argues that, beyond this, the NRC must consider only those alternatives that serve the purpose for which an applicant is seeking approval, and, according to the petitioner, there are none. ESP and COL applicants, the petitioner reiterates, seek to obtain a determination on whether the proposed site and facilities meet all applicable NRC requirements, not a decision as to whether one or more nuclear facilities should, or will, be built, nor how or how much or where electricity should be generated in the future. In the petitioner's view it is unnecessary and inappropriate both for the NRC to require applicants to conduct a NEPA analysis of such issues, and for the agency to expend its own limited resources to evaluate possible alternative sources of electricity, alternative sites, or the need for power.

*Agency Discretion under NEPA.* The petitioner maintains that each Federal

agency considering a major proposed action is charged with determining what alternatives are reasonable and should be considered under NEPA. According to the petitioner, the fact that the NRC modified the scope of its NEPA review in license renewal proceedings is evidence that the agency also has the authority to determine what matters are pertinent to NEPA evaluation of applications to site and build new nuclear power plants.

*Limits of NRC's Authority.* The petitioner further claims that, if the NRC were to deny an application for reasons related to alternative sites or alternative energy sources, the applicant would not be required to use either the alternative site or the alternative energy source recommended by the agency. In fact, the petitioner says, the applicant would be free to develop a different alternative energy source at another site, which might result in a greater environmental impact than the nuclear power plant originally proposed. In such a case, the petitioner argues, the NRC's denial of the permit or license would, in the name of protecting the environment, actually defeat the purpose of NEPA review.

*Summary.* In summary, the petitioner maintains that the NRC, as part of its NEPA analysis, is not legally obligated, and thus should not attempt, to reach any conclusions related to alternative sites, alternative sources of power, or the need for power. The petitioner believes that the NRC demonstrated the proper use of its discretion when it altered its understanding of the ''major Federal action'' in the license renewal context, with a consequent, appropriate change in NRC's requirements for NEPA analyses. The petitioner argues that the NRC should similarly exercise that discretion to circumscribe its NEPA analysis requirements in Parts 50 and 52.

*Changes in the Electricity Marketplace Since the 1970's*

The petitioner maintains that, while NEPA has never required these analyses, the electric utility structure in the 1970's was such that a typical environmental review associated with the siting, construction and operation of a nuclear power plant included an evaluation of the need for additional generating capacity, alternative sites, and alternative sources of energy. The petitioner notes that, in the 1970's, the typical applicant for a nuclear power plant was an electric utility that was regulated by a State public utility commission. As a regulated electric utility, the applicant also had the legal authority to exercise the power of eminent domain to build generating facilities and any necessary supporting infrastructure. In the petitioner's view, many licensing decisions and judicial determinations based on the NRC's interpretation of its responsibilities under NEPA, and corresponding NRC regulations and practices, were adopted in response to this particular historical context.

*Effects of Deregulation.* The petitioner notes that dramatic changes have occurred in the electric power industry over the past thirty years, most notably resulting from the passage of the Energy Policy Act of 1992 and resultant actions by the Federal Energy Regulatory Commission imposing open access transmission requirements on electricity transmission providers. Today, the petitioner contends, any new nuclear power plant is likely to be constructed and operated by an unregulated merchant generator operating in a competitive marketplace. The petitioner believes that a merchant generator will not build and operate a plant unless there is a need for the proposed additional generating capacity or the proposed facility will generate electricity at a lower cost than its competitors. The petitioner contends that a merchant generator will not build and operate a nuclear power plant if there is a superior alternative source of energy. According to the petitioner, in States where utilities are still subject to regulation, the situation described relative to license renewal will be directly applicable. The petitioner argues that, given all of these factors, it is not reasonable to believe that a nuclear power plant will be built in today's environment absent a need for power or some other benefit.

The petitioner further maintains that it is not reasonable to assume that the NRC would be able to identify an alternative site or alternative energy source that is both feasible and preferable to the choices made by a merchant generator. Because the consideration of alternatives under NEPA is subject to a rule of reason, the petitioner believes that NEPA does not compel the NRC to consider these factors in today's environment. The petitioner maintains that deregulation at the State level has fundamentally altered both the marketplace for electricity and the makeup of electricity generating companies, and argues that the NRC's regulatory framework for implementing NEPA should be revised accordingly.

**The Petitioner's Conclusion**

The petitioner concludes that, given the dramatic effect of State deregulation on electricity markets and generators, the NRC should reevaluate its implementation of NEPA. The petitioner maintains that the ''major Federal action'' in NRC proceedings should be described solely in terms of evaluating the suitability of siting, constructing or operating one or more nuclear power plants at a proposed site in accordance with the NRC's responsibilities under the Atomic Energy Act. The ''reasonable alternatives'' that must be considered under NEPA should, in turn, be defined by reference to this circumscribed understanding of the major Federal action at issue. The petitioner further argues that limited NRC, industry and other stakeholder resources should not be expended on matters that are more appropriately and effectively dealt with by State and local regulators. Given the dictates of NEPA as they apply to the decisions to be made under 10 CFR parts 50 and 52, the petitioner believes that the NRC need not, and therefore as a matter of policy should not, conduct any evaluation of alternative sites, alternative energy sources, or need for power.

The petitioner contends that the foregoing reasons support its request to eliminate the Part 52 requirements for applicants to submit, and for NRC to review, information on alternative sites. The petitioner maintains that 10 CFR parts 2, 50 and 51 should be similarly modified to eliminate provisions which require applicants requesting NRC approval to site, build and operate nuclear power plants to submit, and the NRC to review, information concerning the need for power, alternative sources and alternative sites.

The petitioner sets out a detailed series of proposed amendments. These amendments are presented verbatim in appendix A to this notice of receipt.

Dated at Rockville, Maryland, this 18th day of September, 2001.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

**Appendix A to This Notice of Receipt—The Nuclear Energy Institute's Proposed Amendments to 10 CFR Part 52 and 10 CFR Parts 2, 50, and 51**

**Proposed Modifications to 10 CFR Part 52**

1. *10 CFR 52.17(a)(2) should be amended as follows:* A complete environmental report as required by 10 CFR 51.45 and 51.50 must be included in the application, provided, however, that such environmental report must focus on the environmental effects of construction and operation of a reactor.

2. *10 CFR 52.18 should be amended as follows:* Applications filed under this subpart will be reviewed according to the applicable standards set out in 10 CFR part 50 and its appendices and part 100 as they apply to applications for construction permits for nuclear power plants. In particular, the Commission shall prepare an environmental impact statement during a review of the application, in accordance with applicable provisions of 10 CFR part 51, provided, however, that the draft and final environmental impact statements prepared by the Commission focus on the environmental effects of construction and operation of a reactor, or reactors, which have characteristics that fall within the postulated site parameters. The Commission shall determine, after consultation with the Federal Emergency Management Agency, whether the information required of the applicant by § 52.17(b)(1) shows that there is no significant impediment to the development of emergency plans, whether any major features of emergency plan submitted by the applicant under § 52.17(b)(2)(i) are acceptable, and whether any emergency plans submitted by the applicant under Section 52.17(b)(2)(ii) provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

**Proposed Modifications to 10 CFR Parts 2, 50 and 51**

1. *10 CFR 2.101(a–1)(1) should be amended as follows:* Part one shall include or be accompanied by any information required by §§ 50.34(a)(1) and 50.30(f) of this chapter which relates to the issue(s) of site suitability for which an early review, hearing and partial decision are sought, except that information with respect to operation of the facility at the projected initial power level need not be supplied, and shall include the information required by §§ 50.33 (a) through (e) and 50.37 of this chapter. The information submitted shall also include: (i) Proposed findings on the issues of site suitability on which the applicant has requested review and a statement of the bases or the reasons for those findings, and (ii) a range of postulated facility design and operation parameters that is sufficient to enable the Commission to perform the requested review of site suitability issues under the applicable provisions of parts 50, 51 and 100.

2. *10 CFR 2.603(b)(1) should be amended as follows:* The Director of Nuclear Reactor Regulation will accept for docketing an application for a construction permit for a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specified in § 50.21(b)(2) or (3) or § 50.22 or is a testing facility where part one of the application as described in § 2.101(a–1) is complete. Part one of any application will not be considered complete unless it contains proposed findings as required by § 2.101(a–1)(1)(i). Upon assignment of a docket number, the procedures in § 2.101(a)(3) and (4) relating to formal docketing and the submission and distribution of additional copies of the application shall be followed.

3. 10 CFR 2.605(b)(1) should be deleted in its entirety.

4. *10 CFR Part 50, Appendix Q.2 and 10 CFR Part 52, Appendix Q.2 (which are essentially identical) should be amended as follows:* The submittal for early review of site suitability issue(s) must be made in the same manner and in the same number of copies as provided in §§ 50.4 and 50.30 for license applications. The submittal must include sufficient information concerning a range of postulated facility design and operation parameters to enable the Staff to perform the requested review of site suitability issues. The submittal must contain suggested conclusions on the issues of site suitability submitted for review and must be accompanied by a statement of the bases or the reasons for those conclusions.

5. 10 CFR Part 50, Appendix Q.7(a) and 10 CFR Part 52, Appendix Q.7(a) (which are identical) should be deleted in their entirety.

6. *The following sentence should be added to the end of 10 CFR 51.45(c):* No discussion of need for power, alternative energy sources, or alternative sites for the facility is required in this report.

7. *10 CFR 51.53(c)(2) should be amended as follows:* * * * In addition, the applicant shall discuss in this report the environmental impacts of alternatives and any other matters described in § 51.45. The report is not required to include discussion of alternative sites, alternative energy sources, or need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such costs and benefits are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation * * *.

8. *The following sentence should be added after the first sentence of 10 CFR 51.71(d):* No discussion of need for power, or of alternative energy sources, or of alternative sites for the facility will be included in the draft environmental impact statement.

9. *10 CFR 51.95(c)(2) should be amended as follows:* The supplemental environmental impact statement for license renewal is not required to include discussion of alternative sites, alternative energy sources, or need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such benefits and costs are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. . . .

10. *10 CFR Part 51, Appendix A.4 should be amended as follows: Purpose of and need for action.* The statement will briefly describe and specify the need for the proposed action. The alternative of no action will be discussed.

11. *The following sentence should be added to the end of 10 CFR part 51, appendix A.5:* The consideration of alternatives will not include an analysis of alternative sites or alternative energy sources.

12. Additionally, conforming changes should be made in 10 CFR 2.101(a)(3)(ii) and 10 CFR 51.71 footnote 4.

13. Finally, NRC Regulatory Guide 4.2 and NUREG–1555 should be modified to reflect the Commission's determination that alternative sites, alternative sources of energy, and need for power are not to be evaluated under 10 CFR part 51 provisions pertaining to the siting, construction and operation of new nuclear power plants.

[FR Doc. 01–23791 Filed 9–21–01; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 52

**[Docket No. PRM–52–1]**

### Nuclear Energy Institute; Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of receipt.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Energy Institute. The petition has been docketed by the NRC and has been assigned Docket No. PRM–52–1. The petitioner is requesting that the NRC

regulations governing early site permits and combined license applications at existing reactor sites be amended to improve the efficiency of the application and review process for companies seeking early site permits or combined licenses at licensed facilities. The petitioner believes that its proposed amendments would enhance the focus and efficiency of the early site permit and combined license process. The petitioner proposes to eliminate the need for what it believes is duplicate applicant production and NRC review of existing information relating to a licensed facility that has been previously approved by the NRC and subject to a public hearing.

**DATES:** Submit comments by November 8, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

**ADDRESSES:** Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (*http://ruleforum.llnl.gov*). At this site, you may view the petition for rulemaking, this **Federal Register** notice of receipt, and any comments received by the NRC in response to this notice of receipt. Additionally, you may upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: *CAG@nrc.gov*).

For a copy of the petition, write to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Documents related to this action are available for public inspection at the NRC Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7163 or Toll-Free: 1–800–368–5642 or e-mail: *MTL@NRC.Gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

The Nuclear Regulatory Commission received a petition for rulemaking dated July 18, 2001, submitted by the Nuclear Energy Institute (petitioner). The petitioner is requesting that the regulations in 10 CFR part 52 governing early site permits and combined license applications at existing reactor sites be amended. Specifically, the petitioner requests that the NRC amend 10 CFR part 52, subpart A, Early Site Permits, to add proposed § 52.16 and amend 10 CFR part 52, subpart C, Combined Licenses, to add proposed § 52.80.

The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition has been docketed as PRM–52–1. The NRC is soliciting public comment on the petition for rulemaking.

**Discussion of the Petition**

The petitioner expects that new power reactors will be ordered by existing licensees in the near future and that the new reactors will use many of the programs currently being used by those licensees. Additionally, the petitioner anticipates that many of the new reactors will be located on existing reactor sites. The petitioner believes that, to avoid needless expenditure of NRC and licensee resources, proposed §§ 52.16 and 52.80 would use existing information as a baseline and would provide for NRC review and an opportunity for a hearing to account for changed circumstances, such as new regulations and significant new information.

The petitioner notes that subpart A to part 52 contains provisions governing issuance of early site permits (ESPs). The petitioner proposes that a new § 52.16 be added to subpart A to allow an ESP applicant to incorporate by reference all or portions of the current licensing basis for an existing reactor site to the extent that they are valid and applicable to one or more additional nuclear power plants that fit within the ESP environmental envelope. Proposed § 52.16 would also require that any information incorporated by reference be augmented to include:

- Significant new safety or environmental information that materially affects the ability of the site to support the proposed additional nuclear facility
- Information regarding the cumulative radiological and environmental impacts of the existing facility and the facility as described in the ESP application
- An analysis of the potential safety impacts of the existing facility on the suitability of the site for the facility as described in the ESP application
- An analysis of the potential safety impacts on the existing facility from the facility as described in the ESP application
- Information that addresses regulations applicable to siting issues that became effective after licensing of the current facility, to the extent that these regulations are not addressed in the current licensing basis

The petitioner states that under proposed § 52.16, the NRC would treat as resolved those matters incorporated by reference, except to the extent that those matters are subject to augmentation with new information described above. The petitioner also states that proposed § 52.16 would allow the NRC to impose a change in the application with respect to the information incorporated by reference to the extent that the change satisfies the principles underlying 10 CFR 50.109, Backfitting. The petitioner believes that in preparing the environmental impact statement for the early site permit, the NRC would adopt the applicable portions of the existing environmental impact statement associated with the site, modified or supplemented as necessary to reflect the NRC's review of the new environmental information described above.

The petitioner notes that subpart C to part 52 contains provisions governing issuance of combined construction permits and operating licenses (COLs). The petitioner states that proposed § 52.80 would be added to subpart C and would contain provisions similar to those proposed in § 52.16. The petitioner also states that proposed § 52.80 would allow a COL applicant to incorporate by reference programmatic information identified in the current licensing basis of an existing licensed facility located at the same site or owned or operated by the same licensee. Proposed § 52.80 would require this programmatic information to be augmented to include information that addresses applicable regulations that became effective after the existing facility was licensed, to the extent that these regulations are not addressed by the current licensing basis for the existing facility. The petitioner states that under proposed § 52.80, the NRC would treat as resolved those matters incorporated by reference from the existing facility, except to the extent that those matters are subject to new information as identified above. The petitioner believes that the NRC could direct that a change be made in the COL application with respect to the information incorporated by reference,

to the extent that the change satisfies the principles underlying 10 CFR 50.109.

The petitioner proposes that 10 CFR part 52 be amended to add §§ 52.16 and 52.80 as follows:

*Section 52.16 Early site permits for licensed sites.*

(a) If an application for an early site permit is filed for a site for which a license or construction permit has been issued, the application may incorporate by reference all or part of the current licensing basis for the site to the extent that it pertains to the siting issues specified in § 52.17.

(b) Information incorporated by reference shall be supplemented to include, to the extent applicable:

(1) Significant new information that materially affects the ability of the site to support the additional nuclear facility as described in the early site permit application;

(2) Information regarding the cumulative radiological impacts of the existing facility and the facility as described in the early site permit application;

(3) An analysis of the potential safety impacts of the existing facility on the suitability of the site for the facility as described in the early site permit application;

(4) An analysis of the potential safety impacts on the existing facility from the facility as described in the early site permit application; and

(5) Information that addresses regulations applicable to siting issues that became effective after licensing of the existing facility, to the extent that such regulations are not addressed by the current licensing basis.

(c) Environmental information incorporated by reference shall be supplemented to include, to the extent applicable:

(1) Significant new information relevant to environmental concerns bearing on the ability of the site to support the additional nuclear facility as described in the early site permit application; and

(2) Information regarding the cumulative environmental impacts of the existing facility and the facility as described in the early site permit application.

(d) The Commission shall treat as resolved the environmental information incorporated by reference under paragraph (a) of this section, except to the extent that those matters are subject to new information under paragraph (b) of this section. In addition, the Commission may impose changes with respect to the information incorporated by reference pursuant to paragraph (a) of this section to the extent that each such change satisfies the criteria in 10 CFR 50.109.

(e) The Commission also shall treat as resolved the environmental information incorporated by reference under paragraph (a) of this section, except to the extent that those matters are subject to new information under paragraph (c) of this section. In preparing its environmental impact statement for the early site permit, the Commission will adopt the applicable portions of the existing environmental impact statement associated with the site (including any supplements), modified or supplemented as necessary to reflect the Commission's review of the new information identified under paragraph (c) of this section.

* * * * *

*Section 52.80 Combined licenses for sites with existing licensed facilities or for applicants holding licenses for other facilities.*

(a) If an application is filed for a combined license for a facility located at a site with an existing licensed facility or by an applicant that holds a license for an existing facility at another site, the application may incorporate by reference the type of information described in § 52.16, subject to the requirements of that section.

(b) The application may also incorporate by reference all or part of the type of information identified in 10 CFR 50.33(g); 50.34(b)(6)(i), (ii), (iv), and (v); 50.34(c); 50.34(d); 50.34(f)(2)(ii); and 50.34(f)(3)(i), (ii), and (vii), to the extent such information is contained in the current licensing basis of an existing facility located at the same site or at a site owned or operated by the same licensee or an affiliate of that licensee. The information incorporated by reference shall be supplemented to include:

(1) Information that addresses regulations applicable to the incorporated information that became effective after licensing of the existing facility, to the extent that such regulations are not addressed by the current licensing basis for the existing facility.

(c) The Commission shall treat as resolved those matters incorporated by reference under paragraph (a) of this section, except to the extent that those matters are subject to new information under paragraph (b) of this section. In addition, the commission may direct that changes be made with respect to the information incorporated by reference pursuant to paragraph (a) of this section to the extent that each such change satisfies the criteria in 10 CFR 50.109.

The petitioner believes that proposed §§ 52.16 and 52.80 are consistent with and promote the NRC's performance goals to: Maintain safety; protection of the environment, and the common defense and security; increase public confidence; make NRC activities and decisions more effective, efficient, and realistic; and reduce unnecessary burden on stakeholders. The petitioner states that the proposed amendments not only are consistent with NRC's mission to ensure adequate protection of the public health and safety, the common defense and security, and the environment; but also, would focus NRC reviews on new information and what the petitioner believes would be an incremental impact of an additional unit at an existing site. The petitioner states that even in the absence of new information, the proposed regulations would provide the NRC with the authority to impose new requirements on previously approved information if required to ensure adequate protection of the public health and safety and the environment.

The petitioner states that the proposed amendments would serve to enhance the efficiency of the regulatory process by eliminating duplicate reviews of matters resolved in previous proceedings by focusing agency resources on new and material information and the impact of potential new units on the site. The petitioner also states that proposed §§ 52.16 and 52.80 would ensure that the public has an opportunity for a hearing on all material issues, including significant new information that would warrant further NRC review. The petitioner believes that proposed §§ 52.16 and 52.80 would reduce regulatory burden by focusing attention on matters that have not been previously decided in other proceedings.

The petitioner notes that 10 CFR 51.29(a)(3) provides that the NRC may exclude issues that have been subject to a previous environmental review. The petitioner believes that its proposed amendments support NRC initiatives to place emphasis on the early identification of regulatory issues and process improvements to handle new license applications. The petitioner states that because the costs of a new facility are affected by application preparation expenses, responding to requests for additional information (RAIs), and possible hearing expenses, ensuring that costs are predictable and commensurate with the safety significance of issues associated with ESP and COL applications and reducing the time for a new facility to be available will be determining factors in business decisions on whether to proceed with new nuclear projects.

The petitioner acknowledges that the NRC has the authority and discretion to adopt new regulations under the Atomic Energy Act of 1954, as amended (AEA), and the Administrative Procedure Act (APA) by either rulemaking or adjudication. The petitioner cites *Vermont Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council, Inc.,* 435 U.S. 519 (1978) in which the Supreme Court held that the NRC is free to promulgate rules of procedure and methods for making factual findings if they satisfy APA requirements. The petitioner believes that nothing in the AEA or APA would preclude adoption of proposed §§ 52.16 and 52.80 or prohibit the NRC from promulgating a rule that would treat information the NRC reviewed and approved in a previous licensing proceeding as resolved. The petitioner emphasizes that proposed §§ 52.16 and 52.80 would require NRC consideration of new

information that has not been previously reviewed or subject to a hearing.

The petitioner notes that §§ 52.39(a)(2), 52.63(a)(4), and 52.103 treat information the NRC has reviewed and approved in previous proceedings as resolved and that the courts have held that these provisions do not deprive individuals of rights to a hearing under § 189 of the AEA. The petitioner also notes that § 52.73 allows a COL application to reference a design certification and that in the COL proceeding, § 52.63(a)(4) requires the NRC to treat matters relating to issuance of the design certification as resolved, even if the design certification proceeding was a different proceeding that may have taken place 15 or more years earlier and probably did not involve the parties in the COL hearing. (See also, §§ 52.55 and 52.61.)

The petitioner indicates that § 52.73 also allows a COL application to reference an ESP and that § 52.39(a)(2) requires the NRC to treat matters resolved in the ESP proceeding as final, even though the ESP decision was a different matter that may have taken place at least 20 years earlier and may not have involved the same COL hearing parties. (See also, §§ 52.27 and 52.33.) In *Nuclear Information & Resource Service* v. *NRC,* 918 F.2d 189, 196–97 n. 14 (D.C. Cir. 1990), aff'd on rehearing 969 F.2d 1169, 1172 (D.C. Cir. 1992), the petitioner notes that the court rejected a challenge to the NRC's decision to treat matters approved in the ESP and design certification proceedings as resolved in a COL hearing in stating ''that the Commission has wide latitude in structuring the scope and timing of its hearings.'' The petitioner notes further that this decision found that § 189 of the AEA does not contain specific instruction on how the hearing is to be conducted or if the NRC must rehear issues already settled earlier in the licensing process. The petitioner believes that the scope and timing of ESP and COL hearings contemplated in proposed §§ 52.16 and 52.80 are fully consistent with existing provisions and court decisions.

The petitioner also believes that limitations on the scope of issues contained in proposed §§ 52.16 and 52.80 are consistent with NRC practice in other areas such as, license renewal and amendments, environmental effects associated with the nuclear fuel cycle, spent fuel storage casks, quality assurance (QA) programs, and the facility and procedure change process. The petitioner notes that the scope of issues appropriate for review in operating license renewal proceedings is limited under 10 CFR parts 51 and 54 that eliminate matters previously considered in prior licensing proceedings or rulemaking actions. The petitioner cites Vermont Yankee Nuclear Power Corp. (Vermont Yankee nuclear Power Station), ALAB–235, 8 AEC 873, 875 (1974) and Georgia Power Co. (Vogtle Nuclear Plant, Units 1 and 2) ALAB–291, 2 NRC 404, 415 (1975) in stating that the right to intervene and raise contentions in license amendment proceedings is limited to issues that directly relate to the proposed change and that it is inappropriate to revisit issues considered in initial licensing that are not affected by the amendment.

The petitioner also cites *Baltimore Gas and Electric Corp.* v. *NRDC,* 462 U.S. 87 (1983) in which the Supreme Court upheld the NRC's approach in the Table S–3 rulemaking proceeding in stating that the generic disposition of environmental issues is proper and precludes unnecessary and repetitive litigation. The petitioner notes that 10 CFR 72.46(e) prohibits review of spent fuel storage cask design issues during licensing hearings for a site-specific independent fuel storage installation (ISFSI) and when a cask was approved in a generic proceeding. The petitioner also notes that 10 CFR 72.210 and 72.212 allow use of generically approved storage casks without providing any opportunity for a plant-specific hearing. The petitioner cites *Kelly* v. *Selin,* 42 F.3d 1501 (6th Cir. 1995), cert. denied 515 U.S. 1159 (1995) in which the courts have held that this process does not deprive individuals of any hearing rights under § 189 of the AEA.

The petitioner states that 10 CFR 50.54(a) has been recently revised to eliminate the need for prior NRC review and changes to a QA program description when the change involves a QA alternative or exception previously approved in an NRC safety evaluation for another plant. The petitioner also states that 10 CFR 50.59(a)(2)(ii) and NRC Regulatory Guide 1.187 permit licensees to adopt evaluation methods approved by the NRC for use by other licensees if the method has been approved for the intended application and the licensee satisfies the applicable terms and conditions for its use. The petitioner believes that proposed §§ 52.16 and 52.80 are fully consistent with precedents in which the NRC has treated prior decisions made in rulemaking or licensing proceedings as resolved and has not permitted further review and litigation of those issues in subsequent proceedings.

The petitioner notes that § 102 of the National Environmental Policy Act of 1969 (NEPA) requires an environmental impact statement (EIS) for major Federal actions that significantly affect the quality of the environment and that 10 CFR 52.18 and 52.89 require an EIS for an ESP and a COL. However, NEPA does not require the NRC to reconsider previously settled issues to assess the environmental impacts of approving a license application to locate an additional reactor at an existing site. The petitioner cites the Council on Environmental Quality (CEQ) regulations that became effective in 1979 to standardize the NEPA process to reduce delays and eliminate duplication of governmental efforts. These regulations allow agencies to use previous environmental analyses when drafting a new EIS or to supplement an EIS if an agency makes substantive changes in a proposed action or when new circumstances or information arise that affect the environment. The petitioner acknowledges that the NRC incorporated these regulations into 10 CFR Part 51 but cites *Deukmejian* v. *NRC,* 751 F.2d 1287 (D.C. Cir. 1984) in noting that although the NRC gives substantial deference to the CEQ's regulations, it is not bound by them.

The petitioner states that 10 CFR 51.29(a)(3) permits the NRC to exclude issues that have been covered by a previous environmental review and that an EIS may provide a reference to a prior document that settled a particular environmental issue. The petitioner believes that although the NRC's regulations specifically refer to adoption of an EIS prepared by another Federal agency, nothing prevents the NRC from using a previous NRC EIS. The petitioner also believes that proposed §§ 52.16 and 52.80 are consistent with NRC and CEQ guidance on referencing and adopting previous EISs.

**The Petitioner's Conclusions**

The petitioner has concluded that the NRC requirements governing early site permits and the combined license process in 10 CFR Part 52 should be amended to permit the NRC to treat applicable information approved in previous licensing proceedings as resolved. The petitioner also has concluded that proposed §§ 52.16 and 52.80 would accomplish this objective and ensure consideration of significant new information that could materially affect the NRC's findings. The petitioner has also concluded that the proposed amendments are consistent with § 189 of the AEA and NRC and court decisions that authorize the NRC to limit the scope of licensing proceedings to avoid additional review and litigation of previously settled issues. Lastly, the

petitioner has concluded that the proposed amendments would conserve NRC resources and streamline the agency's administrative processes to eliminate what it believes are unnecessary costs and burdens on applicants for new licenses.

Dated at Rockville, Maryland, this 18th day of September, 2001.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 01–23790 Filed 9–21–01; 8:45 am]

**BILLING CODE 7590–01–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 25

**[Docket No. NM195; Notice No. 25–01–04–SC]**

## Special Conditions: Boeing Model 777–200 Series Airplanes; Overhead Crew Rest Compartments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for Boeing Model 777–200 series airplanes, modified by the Boeing Commercial Airplane Group, Wichita. The proposed modification consists of the installation of an overhead flightcrew rest (OFCR) and an overhead attendant rest (OAR). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Comments must be received on or before October 24, 2001.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM195, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM195. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2194; facsimile (425) 227–1320.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this action may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this action must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to NM195.'' The postcard will be date stamped and returned to the commenter.

### Background

On September 18, 2000, the Boeing Commercial Airplane Group (BCAG)—Wichita Division Designated Alteration Station (DAS) applied for a Supplemental Type Certificate (STC) from the Wichita Aircraft Certification Office (ACO). The STC is to install an overhead flightcrew rest (OFCR) and an overhead attendant rest (OAR) on Boeing Model 777–200 series airplanes. The OFCR compartment adjacent to door one will include a maximum of two private berths and two seats. Occupancy of the OFCR will be limited to a maximum of four occupants. The OAR compartment, adjacent to door three, will include a combination of private berths and seats for a maximum of twelve occupants. Occupancy of the OAR will be limited to a maximum of twelve occupants. Follow-on designs may locate the OAR at either door three, or door four depending on the Model 777–200 airplane and option(s) selected by the customer.

Both crew rests, OFCR and OAR, will be accessed from the main deck by stairs. In addition, an emergency hatch which opens directly into the cabin area will be provided for each compartment. A smoke detection system, an oxygen system, and occupant amenities will also be provided. These compartments will only be occupied in flight, not during taxi, takeoff, or landing.

The Boeing Model 777–200 series airplanes are large twin engine airplanes with various passenger capacities and ranges depending upon airplane configuration, and currently do not incorporate OFCR and OAR compartments in production. While the installation of a crew rest compartment is not a new concept for large transport category airplanes, each crew rest compartment has unique features based on design, location, and use on the airplane. Crew rest compartments have been installed and certified in the main passenger area, above the main passenger area and below the passenger cabin area within the cargo compartment of the Boeing Model 777–200/–300 series airplanes. Also, overhead crew rest compartments have been installed on the Boeing Model 747 series airplanes.

The FAA has previously issued special conditions, which contain the additional safety standards that must be met for the overhead crew rests on Boeing Model 747 series airplanes. The FAA certified the lower lobe attendant rest on the Boeing Model 777–200 series airplanes by equivalent level of safety finding to the requirements of 25.819. In addition, the FAA recently issued Special Conditions No. 25–169–SC, dated December 1, 2000, for 777–200 series airplanes for overhead crew rest to support a STC for Flight Structures Inc (FSI) of Arlington, Washington. The Flight Structures, Inc. (FSI) Special Conditions No. 25–169–SC were amended on May 2, 2001.

These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Certification requirements for pilot ''sleeping quarters'' per the requirements of 121.485 are not addressed in these special conditions. The applicant must work directly with the Aircraft Evaluation Group (AEG) with regard to the adequacy of onboard sleeping quarters/facilities for compliance with 121.485(a), 121.523(b) and 135.269(b)(5). The AEG is responsible for making this finding.

### Type Certification Basis

Under the provisions of 21.101, Boeing must show that the Model 777–

200 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. T00001SE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. T00001SE for the Boeing Model 777–200 series airplanes include 14 CFR part 25, as amended by Amendments 25–1 through 25–82. The U.S. type certification basis for the Boeing Model 777–200 series airplanes is established in accordance with 14 CFR 21.17 and 21.29 and the type certification application date. The type certification basis is listed in Type Certificate Data Sheet No. T00001SE.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–200 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777–200 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as appropriate, are issued in accordance with § 11.19, after public notice, as required by § 11.38, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

## Novel or Unusual Design Features

While the installation of a crew rest compartment is not a new concept for large transport category airplanes, each compartment design has unique features by virtue of its design, location, and use on the airplane. Previously, crew rest compartments have been evaluated that are installed within the main passenger compartment area of the Boeing Model 777–200 and Model 777–300 series airplanes and the overhead area of the passenger compartment of the 777–200. Other crew rest compartments have been installed below the passenger cabin area, adjacent to the cargo compartment. Similar overhead crew rest compartments have also been installed on the Boeing Model 747 airplane. The interfaces of the modification are evaluated within the interior and assessed in accordance with the certification basis of the airplane. However, part 25 does not provide all the requirements for crew rest compartments within the overhead area of the passenger compartment. Further, these special conditions do not negate the need to address other applicable part 25 regulations.

Due to the novel or unusual features associated with the installation of this crew rest compartment, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificate.

## Discussion of the Proposed Special Conditions

In general, the requirements listed in these proposed special conditions are similar to those previously approved in earlier certification programs, such as for the Boeing Model 777–200 series airplanes and Boeing Model 747 overhead crew rest compartments. These proposed special conditions establish seating, communication, lighting, personal safety, and evacuation requirements for the overhead crew rest compartment. In addition, passenger information signs, supplemental oxygen, and a seat or berth for each occupant of the crew rest compartment would be required. These items are necessary because of turbulence and/or decompression. When applicable, the proposed requirements parallel the existing requirements for a lower deck service compartment and provide an equivalent level of safety to that provided for main deck occupants.

*Proposed Special Condition No. 1*

Seats and berths must be certified to the maximum flight loads. Due to the location and configuration of the crew rest compartment, it is proposed that occupancy during taxi, takeoff, and landing would be prohibited, and occupancy limited to crewmembers during flight. Occupancy would be limited to four in the overhead flightcrew rest (OFCR) or the combined total of approved seats and berths in the OFCR, whichever is less. Occupancy would be limited to twelve in the overhead attendant rest (OAR), or the combined total of approved seats and berths in the OAR, whichever is less. Appropriate placards are proposed to prohibit passenger access, access by crewmembers not trained in evacuation procedures, smoking and hazardous quantities of flammable fluids, explosives or other dangerous cargo. Of special note is the intended meaning of the phrase ''hazardous quantities'' used above. The intent of this term is to continue to accept a practice that permits trained crewmembers to carry baggage containing minute quantities of flammable fluids (e.g., finger nail polish) that would pose no threat to the airplane or its occupants. This wording is consistent with the existing wording of §§ 25.831(d), 25.855 (h)(2), 25.857 (b)(2), (c)(3) & (e)(4) and 25.1353(c)(3). Requirements for door access and locking and the installation of ashtrays are proposed.

*Proposed Special Condition No. 2*

To preclude occupants from being trapped in the crew rest compartment in the event of an emergency there must be at least two emergency evacuation routes which could be used by each occupant of the crew rest compartment to rapidly evacuate to the main cabin. These two routes must be sufficiently separated to minimize the possibility of an event rendering both routes inoperative. The main entry route meeting the appropriate requirements may be utilized as one of the emergency evacuation routes or alternatively two other emergency routes must be provided. The previous special conditions allowed only one of the evacuation routes to terminate in a main aisle, cross aisle or galley complex. The idea was to ensure that one of the two routes would be clear of moving occupants under most foreseeable circumstances.

The following provides clarification in the intent of special condition 2b concerning the utility of the egress routes. There are three issues that should be considered. First, occupied passenger seats are not considered an impediment to the use of an egress route, (e.g., egress route drops into one row of seats via a hatch), provided that the seated occupants do not inhibit the opening of the egress route (*e.g.,* hatch).

The second issue is that the proposed special conditions would allow a second route to utilize areas where normal movement of passengers occurs if it is demonstrated that the passengers would not impede egress to the main deck. If the egress means (hatch in this design) opens into a main aisle, cross aisle, or galley complex to an extent that it contacts a standing 95th percentile male, the contact should only momentarily interrupt the opening of

the egress hatch. The interruption to the egress means can be considered momentary if the egress means will continue to open normally once the person has moved out of the way.

The third consideration is with respect to a passenger in the cabin re-closing the escape hatch, effectively preventing the occupants of the crew rest area from using the escape route. The escape hatch should be provided with a means to prevent it from being inadvertently re-closed by a passenger on the main deck, but allow the escape hatch to be restowed by the crew prior to landing.

Training requirements for the occupants of the crew rest area are included in the proposal.

*Proposed Special Condition No. 3*

It is proposed that each evacuation route must be designed and procedures specified to allow for removal of an incapacitated person from the crew rest compartment to the main deck. Words have been added for clarification for evacuation routes having stairways. Additional assistants to evacuate an incapacitated person may ascend up to one half the elevation change from the main deck to the overhead compartment, or to the first landing, whichever is lower. The revised FSI special conditions did provide guidance information regarding limiting the number of assistants but did not provide their position and/or stance on the stairs or landing. The proposal also allows that a single row of seats may be emptied for the purposes of demonstrating evacuation of an incapacitated person, where the escape route is over seats.

*Proposed Special Condition No. 4*

Exit signs, placards for evacuation routes, illumination for signs, placards and door handles are proposed. The proposal allows for exit signs with a reduced background area to be used. These reduced background area signs have been allowed under previous equivalent levels of safety for small transport executive jets. A proviso has been proposed that would limit the material surrounding the sign to be light in color to more closely match and enhance the illuminated background of the sign that has been reduced in area (letter size stays the same).

*Proposed Special Condition No. 5*

To prevent the occupants from being isolated in a dark area due to loss of the crew rest compartment lighting, an emergency lighting system, which is activated under the same conditions as the main deck emergency lighting system, is proposed.

*Proposed Special Condition No. 6*

It is proposed that a two-way voice communications and public address speaker(s) would be required to alert the occupants to an in-flight emergency. Also, a system to alert the occupants of the crew rest compartment in the event of decompression and to don oxygen masks is proposed.

*Proposed Special Condition No. 7*

Emergency alarm means or use of the public address system or crew interphone system to inform occupants of the OFCR or OAR of an emergency situation is proposed. Power duration to the emergency alarm after certain failures is proposed.

*Proposed Special Condition No. 8*

Proposed Special Condition No. 8 requires a means, readily detectable by seated or standing occupants of the crew rest compartment, which indicates when seat belts should be fastened. The requirement for visibility of the sign by standing occupants may be met by a general area sign that is visible to occupants standing in the main floor area or corridor of the crew rest area. It would not be essential that the sign be visible from every possible location in the crew rest area; however, the sign should not be remotely located or located where it may be easily obscured.

*Proposed Special Condition No. 9*

Since the overhead crew rest compartment is remotely located from the passenger cabin, a hand-held fire extinguisher, protective breathing equipment and a flashlight are proposed tools specified to fight a fire should a fire occur.

*Proposed Special Condition No. 10*

Since the overhead crew rest compartment is remotely located from the main passenger cabin and will not always be occupied, a smoke detection system and appropriate warnings are proposed. The smoke detection system must be capable of detecting a fire in each area of the compartment created by the installation of a curtain or door.

*Proposed Special Condition No. 11*

It is proposed that the crew rest compartment be designed such that fires within the compartment can be controlled without having to enter the compartment; or, the design of the access provisions must allow crew equipped for fire fighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the crew rest compartment to become smoke filled, making it difficult to locate the fire source.

*Proposed Special Condition No. 12*

This proposed special condition requirement concerning fires within the compartment was developed for, and applied to, Boeing Model 777–200 and Model 777–300 series airplanes lower lobe crew rest compartments. It was not applied to the overhead crew rest compartment in earlier certification programs such as the Boeing Model 747. The Model 747 special conditions were issued before the new flammability requirements were developed. This requirement originated from a concern that a fire in an unoccupied crew rest compartment could spread into the passenger compartment, or affect other vital systems, before it could be extinguished. The proposed special conditions would require either the installation of a manually activated fire containment system that is accessible from outside the crew rest compartment, or a demonstration that the crew could satisfactorily perform the function of extinguishing a fire under the prescribed conditions. A manually activated built-in fire extinguishing system would be required only if a crewmember could not successfully locate and extinguish the fire during a demonstration where the crewmember is responding to the alarm.

The crew rest compartment smoke or fire detection and fire suppression systems (including airflow management features which prevent hazardous quantities of smoke or fire extinguishing agent from entering any other compartment occupied by crewmembers or passengers) is considered complex in terms of paragraph 6d of Advisory Circular (AC) 25.1309–1A, ''System Design and Analysis.'' In addition, the FAA considers failure of the crew rest compartment fire protection system (i.e., smoke or fire detection and fire suppression systems) in conjunction with a crew rest fire to be a catastrophic event. Based on the ''Depth of Analysis Flowchart'' shown in Figure 2 of AC 25.1309–1A, the depth of analysis should include both qualitative and quantitative assessments (reference paragraphs 8d, 9, and 10 of AC 25.1309–1A). In addition, it should be noted that hazardous quantities of flammable fluids, explosives, or other dangerous cargo are prohibited from being carried in the crew rest area, a prohibition addressed in proposed Special Condition No. 1(a)(5).

The requirements to enable crewmember(s) quick entry to the crew rest compartment and to locate a fire source inherently places limits on the amount of baggage that may be carried and the size of the crew rest area. The crew rest area is limited to stowage of crew personal luggage and it is not intended to be used for the stowage of cargo or passenger baggage. The design of such a system to include cargo or passenger baggage would require additional requirements to ensure safe operation.

*Proposed Special Condition No. 13*

Oxygen equipment and a supplemental oxygen deployment warning are proposed.

*Proposed Special Condition No. 14*

For a divided crew rest compartment, requirements are proposed to address supplemental oxygen equipment and deployment means, signs, placards, curtains, doors, emergency illumination, alarms, seat belt fasten signals, and evacuation routes.

*Proposed Special Condition No. 15*

Alleviations to the requirements above for lavatories or other small areas within a crew rest area are proposed.

*Proposed Special Condition No. 16*

When waste disposal receptacle are installed, fire extinguishers are proposed.

*Proposed Special Condition No. 17*

The materials in the crew rest compartment must meet the flammability requirements of § 25.853(a), and the mattresses must meet the fire blocking requirements of § 25.853(c).

These proposed special conditions provide the regulatory requirements necessary for certification of this modification. Other special conditions may be developed, as needed, based on further FAA review and discussions with the applicant, manufacturer, and civil aviation authorities.

## Applicability

As discussed above, these special conditions are applicable to Boeing Model 777–200 series airplanes. Should Boeing Commercial Airplane Group, Wichita Division Designated Alternation Station, apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Certification of the Boeing Model 777–200 series airplanes, modified by Boeing Commercial Airplane Group, Wichita Division Designated Alternation Station, is currently scheduled for mid-November 2001. The substance of these special conditions has been subject to the notice and public comment procedure previously. For this reason, and because a delay would significantly affect the applicant's installation of the system and certification of the airplane, the public comment period is being shortened to 30 days.

## Conclusion

This action affects only certain novel or unusual design features on Boeing Model 777–200 series airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

## List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

## The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 777–200 series airplanes, as modified by Boeing Commercial Airplane Group, Wichita Division Designated Alteration Station, with overhead crew rest compartments, OFCR and/or OAR compartments.

1. Occupancy of the overhead crew rest compartment is limited to the total number of installed bunks and seats in each compartment. There must be an approved seat or berth able to withstand the maximum flight loads when occupied for each occupant permitted in the crew rest compartment. The maximum occupancy is four in the OFCR and 12 for the OAR.

(a) There must be appropriate placards, inside and outside to indicate:

(1) The maximum number of occupants allowed,

(2) That occupancy is restricted to crewmembers that are trained in the evacuation procedures for the overhead crew rest compartment,

(3) That occupancy is prohibited during taxi, take-off and landing, and

(4) That smoking is prohibited in the crew rest compartment.

(5) That hazardous quantities of flammable fluids, explosives, or other dangerous cargo are prohibited from the crew rest compartment.

(b) There must be at least one ashtray on the inside and outside of any entrance to the crew rest compartment.

(c) There must be a means to prevent passengers from entering the compartment in the event of an emergency or when no flight attendant is present.

(d) There must be a means for any door installed between the crew rest compartment and passenger cabin to be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

(e) For all doors installed, there must be a means to preclude anyone from being trapped inside the compartment. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

2. There must be at least two emergency evacuation routes, which could be used by each occupant of the crew rest compartment to rapidly evacuate to the main cabin. In addition—

(a) The routes must be located with sufficient separation within the compartment, and between the evacuation routes, to minimize the possibility of an event rendering both routes inoperative.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or persons standing below or against the escape route. One of two evacuation routes should not be located where, during times in which occupancy is allowed, normal movement by passengers occurs (i.e. main aisle, cross aisle or galley complex) that would impede egress of the crew rest compartment. If an evacuation route utilizes an area where normal movement of passengers occurs, it must be demonstrated that passengers would not impede egress to the main deck. If there is low headroom at or near the evacuation route, provisions must be made to prevent or to protect occupants (of the crew rest area) from head injury. The use of evacuation routes must not be dependent on any powered device. If the evacuation path is over an area where there are passenger seats, a maximum of one row of passengers may be displaced from their seats temporarily during the evacuation process. If the evacuation procedure involves the evacuee stepping on seats, the seats must not be damaged to the extent that they would not be acceptable

for occupancy during an emergency landing.

(c) Emergency evacuation procedures and the emergency evacuation of incapacitated occupant procedures must be established and transmitted to the operator for incorporation into their training programs and appropriate operational manuals. If the evacuation path is over an area where there are passenger seats, a maximum of one row of passengers may be displaced from their seats temporarily during the evacuation process.

(d) There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated person (representative of a ninety-fifth percentile male) from the crew rest compartment to the passenger cabin floor.

(a) The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant within the crew rest area) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. These additional assistants must be standing on the floor while providing assistance, except that for evacuation routes having stairways, the additional assistants may ascend up to one half the elevation change from the main deck to the overhead compartment, or to the first landing, whichever is lower.

(b) Procedures for the evacuation of an incapacitated person from the crew rest compartment must be established.

4. The following signs and placards must be provided in the crew rest compartment:

(a) At least one exit sign, located near each exit, meeting the requirements of § 25.812(b)(1)(i), except that a sign of reduced background area with no less than 5.3 square inches (excluding the letters) may be utilized, provided that it is installed such that the material surrounding the exit sign is light in color (*e.g.* white, cream, light beige). If the material surrounding the exit sign is not light in color, a sign with a minimum of a one inch wide background border around the letters would also be acceptable.

(b) An appropriate placard defining the location and the operating instructions for each evacuation route.

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions.

(d) The exit handles and evacuation path operating instruction placards must be illuminated to at least 160 microlamberts under emergency lighting conditions.

5. There must be a means in the event of failure of the airplane's main power system, or of the normal crew rest compartment lighting system, for emergency illumination to be automatically provided for the crew rest compartment.

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the crew rest compartment to locate and transfer to the main passenger cabin floor by means of each evacuation route.

6. There must be means for two-way voice communications between the crewmembers on the flight deck and the occupants of the crew rest compartment. There must also be two-way communications between the occupants of the crew rest compartment and each flight attendant station required to have a public address system microphone per § 25.1423(g) in the passenger cabin.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flight deck and at each pair of required floor level emergency exits to alert occupants of the crew rest compartment of an emergency situation. Use of a public address or crew interphone system would be acceptable, providing an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight, after the shutdown or failure of all engines and auxiliary power units, or the disconnection or failure of all power sources dependent on their continued operation, for a period of at least ten minutes.

8. There must be a means, readily detectable by seated or standing occupants of the crew rest compartment, which indicates when seat belts should be fastened. In the event there are no seats, at least one means must be provided to cover anticipated turbulence. Seat belt type restraints must be provided for berths and must be compatible for the sleeping attitude during cruise conditions. There must be a placard on each berth requiring that seat belts must be fastened when occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard identifying the head position.

9. The following equipment must be provided in the crew rest compartment:

(a) At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

(b) One protective breathing equipment device approved to Technical Standard Order (TSO)–C116 or equivalent, suitable for fire fighting; and

(c) One flashlight.

10. A smoke detection system (or systems) must be provided that monitors each area within the crew rest including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication to the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew rest compartment; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The crew rest compartment must be designed such that fires within the compartment can be controlled without a crewmember having to enter the compartment, or the design of the access provisions must allow crewmembers equipped for firefighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the crew rest compartment from entering any other compartment occupied by crewmembers or passengers. The means must include the time periods during the evacuation of the crew rest compartment and, if applicable, when accessing the crew rest compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or passengers must dissipate within five minutes after closing the access to the crew rest compartment. Flight tests must be conducted to show compliance with this requirement.

If a built-in fire extinguishing system is used in lieu of manual fire fighting, then the fire extinguishing system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crew; the system must have adequate capacity to suppress any fire occurring in the crew rest compartment, considering the fire threat, volume of the compartment and the ventilation rate.

13. There must be a supplemental oxygen system equivalent to that provided for main deck passengers for each seat and berth in the crew rest compartment. The system must provide an aural and visual warning to warn the occupants of the crew rest compartment to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously until a reset push button in the crew rest compartment is depressed.

14. The following requirements apply to a crew rest compartment that is divided into several sections by the installation of curtains or partitions:

(a) To compensate for sleeping occupants, there must be an aural alert that can be heard in each section of the crew rest compartment that accompanies automatic presentation of supplemental oxygen masks. A minimum of two supplemental oxygen masks are required in each section whether or not seats or berths are installed in each section. There must also be a means by which the oxygen masks can be manually deployed from the flight deck.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the overhead crew rest compartment into small sections. The placard must require that the curtain(s) remain open when the private section it creates is unoccupied. The vestibule section adjacent to the stairway is not considered a private area and, therefore, does not require a placard.

(c) For each crew rest section created by the installation of a curtain, the following requirements of these special conditions must be met with the curtain open or closed:

(1) No smoking placard (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Emergency alarm system (Special Condition No. 7),

(4) Seat belt fasten signal (Special Condition No. 8), and

(5) The smoke or fire detection system (Special Condition No. 10).

(d) Overhead crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the crew rest compartment, and must meet the requirements of 25.812(b)(1)(i).

(e) Sections within an overhead crew rest compartment that are created by the installation of a rigid partition with a door physically separating the sections, the following requirements of these special conditions must be met with the door open or closed:

(1) There must be a secondary evacuation route from each section to the main deck, or alternatively, it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of 25.812(b)(1)(i) that direct occupants to the primary stairway exit. An exit sign with reduced background area as described in Special Condition No. 4(a) may be used to meet this requirement.

(f) For each smaller section within the main crew rest compartment created by the installation of a partition with a door, the following requirements of these special conditions must be met with the door open or closed:

(1) No smoking placards (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Two-way voice communication (Special Condition No. 6),

(4) Emergency alarm system (Special Condition No. 7),

(5) Seat belt fasten signal (Special Condition No. 8),

(6) Emergency fire fighting and protective equipment (Special Condition No. 9), and

(7) Smoke or fire detection system (Special Condition No. 10).

15. The requirements of two-way voice communication with the flight deck and provisions for emergency firefighting and protective equipment are not applicable to lavatories or other small areas that are not intended to be occupied for extended periods of time.

16. Where a waste disposal receptacle is fitted, it must be equipped with an automatic fire extinguisher that meets the performance requirements of 25.854(b).

17. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of 25.853(a), as amended by Amendment 25–83. Mattresses must comply with the flammability requirements of 25.853(c), as amended by Amendment 25–83.

Issued in Renton, Washington on September 17, 2001.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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BILLING CODE 4910–13–P

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 915

**[SPATS No. IA–012–FOR]**

## Iowa 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 Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Iowa proposes revisions to its April 1999 revegetation success guidelines concerning normal husbandry practices; minimum planting arrangements and tree and shrub stocking requirements for recreational, wildlife, and forested lands; and criteria for dry weight determinations for corn, soybean, oat, and wheat crops. Iowa intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Iowa program and the proposed amendment to that program are available for public 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 24, 2001. If requested, we will hold a public hearing on the amendment on October 19, 2001. We will accept

requests to speak at the hearing until 4 p.m., c.d.t. on October 9, 2001.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to John W. Coleman, Mid-Continent Regional Coordinating Center, at the address listed below.

You may review copies of the Iowa 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 Mid-Continent Regional Coordinating Center.

John W. Coleman, Mid-Continent Regional Coordinating Center, Office of Surface Mining, Alton Federal Building, 501 Belle Street, Alton, Illinois 62002, Telephone: (618) 463–6460.

Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Henry A. Wallace Building, Des Moines, Iowa 50319, Telephone: (515) 281–6147.

**FOR FURTHER INFORMATION CONTACT:** John W. Coleman, Mid-Continent Regional Coordinating Center. Telephone: (618) 463–6460. Internet: jcoleman@osmre.gov.

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Iowa 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 Iowa program on January 21, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5885). You can find later actions on the Iowa program at 30 CFR 915.10, 915.15, and 915.16.

## II. Description of the Proposed Amendment

By letter dated August 17, 2001 (Administrative Record No. IA–446), Iowa sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Iowa sent the amendment in response to required program amendments at 30 CFR 915.16(b), (d), and (e). Iowa is proposing changes to its April 1999 revegetation success guidelines, entitled ''Revegetation Success Standards and Statistically Valid Sampling Techniques.'' Below is a summary of the changes proposed by Iowa. The full text of the Iowa program amendment is available for public inspection at the locations listed above under **ADDRESSES**.

### *A. Normal Husbandry Practices*

Section III, Part H of Iowa's April 1999 revegetation success guidelines describes normal husbandry practices that can be used by the permittee in the repair of rills and gullies without restarting the responsibility period. It includes requirements for terrace repair and maintenance; riprap repair and maintenance; land smoothing and reseeding; and liming, fertilizing and interseeding. In our final rule dated November 26, 1999, we did not approve Section III, Part H because Iowa did not submit documentation that demonstrated that the proposed normal husbandry practices were the usual or expected state, form, amount, or degree of management performed habitually or customarily to prevent exploitation, destruction, or neglect of the resources on similar unmined lands in the State (64 FR 66388–66389). We required Iowa to either remove its guidelines for normal husbandry practices at Section III, Part H or submit documentation that support the proposed normal husbandry practices. We codified this requirement at 30 CFR 915.16(b).

In response to the required program amendment at 30 CFR 915.16(b), Iowa proposed changes to Section III, Part H of its April 1999 revegetation success guidelines and included documentation for support of the proposed normal husbandry practices. The documentation included copies of four publications: (1) Iowa Natural Resources Conservation Service (NRCS) Conservation Practice Standard 466, Land Smoothing; (2) Iowa NRCS Conservation Practice Standard 590, Nutrient Management; (3) Iowa NRCS Conservation Practice Standard 600, Terraces; and (4) Iowa State University Extension Service Publication Pm-1097, Interseeding and No-till Pasture Renovation.

Iowa is proposing the following substantive changes to Section III, Part H:

1. Iowa is revising Section III, Part H, Step 1 concerning terrace repair and maintenance by removing Item (e). Item (e) allows the extension of a terrace to intercept additional drainage area when the extension is no greater than 25 percent of the original terrace length. Items (f) and (g) were relettered as (e) and (f), respectively.

2. Iowa is revising Section III, Part H, Step 2 concerning riprap repair and maintenance by removing Item (b). Item (b) allows the extension of an undersized ditch when the extension is no more than a 25 percent increase in the length of the ditch. Items (c) and (d) were relettered as (b) and (c), respectively.

3. Iowa is revising Section III, Part H, Step 4(a) concerning lime applications. The revised provision reads as follows:

> (a) Lime Applications: Lime applications may be made based on soil test recommendations for the appropriate crop or vegetation. These maintenance applications should follow the guidelines of Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management (Acre), Code 590. Prior to any lime applications the Permittee shall be required to submit, to the Division, the original copies of the soil test recommendations and a map of the permit area indicating where each soil sample was taken. Under no circumstances will lime applications greater than the soil test recommendations for that crop or vegetative cover be permitted. If subsequent submittals of lime weight tickets show any lime applications in a significant excess of the soil test recommendations, it shall be grounds for the Division to restart the responsibility period.

4. Iowa is revising Section III, Part H, Step 4(b) concerning fertilizer applications. The revised provision reads as follows:

> (b) Fertilizer Applications: Fertilizer applications may be made based on soil test recommendations for the appropriate crop or vegetation. These maintenance applications should follow the guidelines of Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management (Acre), Code 590. Prior to any fertilizer applications the Permittee shall be required to submit, to the Division, the original copies of the soil test recommendations and a map of the permit area indicating where each soil sample was taken. Under no circumstances will the fertilizer applications be greater than the soil test recommendations for that crop (at a realistic median crop yield) or vegetative cover be permitted. If subsequent submittals of fertilizer weight tickets prove that any fertilizer applications were in significant excess of the soil test recommendations, that shall be grounds for the Division to restart the responsibility period.

5. Iowa is revising the introductory paragraph of Section III, Part H, Step 4(c) concerning interseeding by adding the following sentence to the end of the paragraph:

Any species to be interseeded must be approved by the Division before the seed is planted.

6. Iowa is revising Section III, Part H, Step 4(c)(ii) to read as follows:

(ii) Interseeding of a single species in the permit approved seeding mixture, or interseeding of a replacement species, that has been approved by the Division, to improve the vegetative cover when unfavorable weather conditions adversely affect the germination success of the original revegetation effort.

7. Finally Iowa is deleting the existing provisions at Section III, Part H, Step 4(c)(iv) and (v).

*B. Recreational, Wildlife, and Forested Lands*

Section IV, Part E of Iowa's April 1999 revegetation success guidelines contains the revegetation success standards for recreational areas, wildlife areas, and forested lands. In our final rule dated November 26, 1999, we approved Section IV, Part E with two exceptions (64 FR 66388). First, Iowa's guidelines did not contain any planting arrangement provisions for these land uses as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). Second, Iowa did not submit any documentation to prove that the State agencies responsible for the administration of forestry and wildlife programs approved its minimum stocking provisions as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). We required Iowa to either add planting arrangement provisions for recreational, wildlife, and forested land to its guidelines and obtain program-wide concurrence from the State agencies responsible for the administration of forestry and wildlife programs or add a provision to its guidelines that requires permit-specific concurrence for planting arrangements from the State agencies responsible for the administration of forestry and wildlife programs. We also required Iowa to either obtain program-wide concurrence for its minimum stocking provisions or add a provision to its guidelines that requires permit-specific concurrence for minimum stocking from the State agencies responsible for the administration of forestry and wildlife programs. We codified these requirements at 30 CFR 915.16(d)(1) and (2).

Iowa is proposing the following changes to Section IV, Part E to address our required program amendments at 30 CFR 915.16(d)(1) and (2).

1. Iowa is adding the following new provision to the beginning of the second paragraph of Section IV, Part E:

The wildlife and recreational lands have site specific vegetation. Each permit with these types of post-mining land use have been approved by the Division in concurrence with the Iowa Department of Natural Resources.

2. Iowa is adding the following new provision to Section IV, Part E, Step 2:

2. Tree and Shrub Stocking Requirements: The tree and shrub planting shall be spaced such that there are a minimum of five hundred (500) seedlings per acre. Acceptable tree and shrub spacing, which will meet or exceed the minimum number of seedlings per acre, are listed below. Narrower spacing is used for timber production. Wider spacing and planting in groups or clumps is used for wildlife and recreational tree and shrub plantings. These group or clump plantings should consist of a minimum of five (5) or more trees, and fifteen (15) or more shrubs per group.

TREE AND SHRUB SPACING FOR PLANTING

| Spacing in feet | Number of seedlings per acre |
|---|---|
| 5 x 5 | 1,742 |
| 5 x 10 | 871 |
| 6 x 6 | 1,210 |
| 6 x 10 | 726 |
| 7 x 7 | 889 |
| 7 x 10 | 622 |
| 8 x 8 | 681 |
| 8 x 10 | 545 |

3. The existing provisions in Section IV, Part E, Step 2 were renumbered to Step 3.

*C. Corn, Soybean, Oat, and Wheat Crops*

Section V of Iowa's April 1999 revegetation success guidelines contains sampling procedures and techniques to determine productivity for corn, soybeans, oats, wheat, and forage crops; to determine ground cover percentage; and to determine if trees and shrubs meet minimum density standards. In our final rule dated November 26, 1999, we approved Section V of Iowa's April 1999 revegetation success guidelines with one exception (64 FR 66388). We did not fully approve Section V, Part A, Item 2, which contains the grain sampling techniques for test plot harvesting, because it did not specify how the permittee is to obtain the dry weight of the test plot grain samples. The dry weight is used in a calculation to determine the moisture percentage for each test plot sample. We required Iowa to revise its April 1999 revegetation success guidelines at Section V, Part A, Step 2 by adding a provision that specifies the standard method that permittees are to use for obtaining the dry weight of test plot grain samples. We codified this requirement at 30 CFR 915.16(e).

In response to the required amendment at 30 CFR 915.16(e), Iowa is adding the following new provision to the beginning of Step 2(l):

(l) The grain samples collected and labeled in Step 2.g. above must be oven dried until a constant dry weight is obtained. Weighing will be performed immediately after oven drying to avoid absorption of water from humid air. This dry weight will equal zero percent (0%) moisture. All samples will be adjusted to the appropriate percent moisture for that grain.

## 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 Iowa 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. IA–012–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 Mid-Continent Regional Coordinating Center at (618) 463–6460.

*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 Mid-Continent Regional Coordinating Center (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 9, 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 915**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 30, 2001.

**Charles E. Sandberg,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

[FR Doc. 01–23732 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–05–P

## DEPARTMENT OF VETERANS AFFAIRS

## 38 CFR Part 3

**RIN 2900–AK23**

## Renouncement of Benefits

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) adjudication regulation concerning the renouncement of benefits. A substantive change in the effective date of a renouncement is proposed. The intended effect of this amendment is to present the existing regulation in plain language so that it is easier to understand and to establish a rule for the effective date of a renouncement of benefits when the award is in suspense.

**DATES:** Comments must be received on or before November 23, 2001.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC, 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900-AK23.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC, 20420. Telephone: (202) 273–7228 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** VA proposes to rewrite 38 CFR 3.106 in plain language. This regulation concerns the renouncement of VA pension, compensation, or dependency and indemnity compensation (DIC) benefits. It explains who has the right to renounce benefits, how to renounce benefits, and what renouncement will mean to a beneficiary. There is also a discussion about the right to reapply for benefits that have been renounced, as well as effective dates for the termination of renounced benefits. The current regulation is located in Subpart A of Part 3. We propose to create new § 3.2145 to restate the current regulation and to amend the effective date portion of it. The new section would be located in Subpart D—Universal Adjudication Rules that Apply to Benefit Claims Governed by part 3 of this title.

Paragraph (a)(1) of proposed new § 3.2145 informs readers that only primary beneficiaries have the right to renounce VA pension, compensation, or DIC benefits, and the term ''primary beneficiary'' is defined as anyone who is entitled to receive benefits in his or her own right. It explains that when a primary beneficiary decides to renounce his or her benefits, the entire benefit is renounced, not just a portion of it. The renouncement must be in writing and be signed by the primary beneficiary or his or her fiduciary. This language was added to clarify that fiduciaries may sign renouncements on behalf of minors and incompetents. The effective date of the renouncement will be the last day of the month in which VA receives it or, if the award is in suspense, the date of last payment. This is a restatement of § 3.106(a), except for the last sentence. The last sentence incorporates our proposed effective date change to the regulation by adding ''or, if payments have been suspended, the date of last payment.''

Prior to January 21, 1992, the effective date for renouncement under 38 CFR 3.106 was the date of last payment. The date of last payment is the last date that VA sent a beneficiary his or her regular monthly benefit payment. However, using the date of last payment created a problem due to workload differences among regional offices, as well as fluctuations within the same office. This often resulted in the termination of two beneficiaries' benefit payments on different dates even though VA had received both beneficiaries' renouncements on the same date. For example, VA receives two renouncements from two beneficiaries on April 19th. Both beneficiaries were last paid on April 1. One renouncement gets processed immediately. That beneficiary's benefits are renounced effective April 1st, the date of last payment, and no more payments are made. The other renouncement isn't processed for two weeks. That beneficiary's May 1st benefit payment has already been issued. Now the date of last payment is May 1st and that is when the renouncement becomes effective. The result is an additional payment sent to a beneficiary who wanted to terminate benefits immediately.

On January 21, 1992, the effective date for a renouncement was changed from the date of last payment to the last day of the month in which the renouncement was received. This eliminated the problem illustrated by the example in the preceding paragraph. However, it did not take into account beneficiaries whose awards were already in suspense when their renouncements were received.

VA proposes to add ''or, if payments have been suspended, the date of last payment'' to the existing regulation to avoid sending additional payments to a beneficiary who wants to terminate his or her benefits immediately, but currently has an award in suspended status. If a beneficiary has an award that has been suspended, it means that he or she has not received any benefit payments for some length of time. Under normal circumstances when VA is able to resume a beneficiary's suspended award, those payments that are due but not yet paid would be released to the beneficiary. In the case of renouncement, however, releasing those payments to a beneficiary seeking to terminate benefits would be inconsistent with the expressed desire of the beneficiary to stop receiving benefits. The proposed wording for paragraph (a) of § 3.2145 would make sure that beneficiaries who renounce their rights to receive VA benefits are not sent any additional benefit payments.

Paragraph (a)(2) of proposed § 3.2145 has been added to clearly state that apportionees and dependents on the awards of other persons are not primary beneficiaries and may not renounce benefits.

Paragraph (b) of proposed § 3.2145 explains that a primary beneficiary who renounces the right to receive VA benefits may reapply for the same benefit at any time. VA will treat the new application as the first claim for that benefit, and no payments may be made for any period prior to its receipt (except as noted in paragraph (c) of this section). This is a restatement of § 3.106(b).

Paragraph (c) of proposed § 3.2145 states the exception to paragraph (b), which concerns reapplication for pension or parents' DIC benefits. When an application for one of these benefits

is received within one year from the date a renouncement of the same benefit was received, it will not be considered a new application. VA will determine entitlement as if the renouncement had never been received. This is a restatement of § 3.106(c).

Paragraph (d) of proposed § 3.2145 clarifies that renouncement by a primary beneficiary does not increase benefits or create independent entitlement to benefits in any other person. While current § 3.106(d) and (e) address this issue with respect to DIC only, the proposed paragraph (d) makes clear that renouncement has the same affect on compensation and pension as well.

This rulemaking reflects VA's goal of making government more responsive, accessible, and comprehensible to the public. The Plain Language Regulations Project was developed as a long-term comprehensive project to reorganize and rewrite in plain language the adjudication regulations in Part 3 of Title 38, Code of Federal Regulations. This proposed rule is part of a series of proposed revisions to those regulations.

**Unfunded Mandates**

The Unfunded Mandates Reform Act, Public Law 104–4, March 22, 1995, requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This proposed rule would have no consequential effect on State, local, or tribal governments.

**Paperwork Reduction Act**

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

**Regulatory Flexibility Act**

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

**Catalog of Federal Domestic Assistance Program Numbers**

The Catalog of Federal Domestic Assistance program numbers for this proposal are 64.104, 64.105, 64.109, and 64.110.

**List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Disability Benefits, Health care, Pensions, Veterans, Vietnam.

Approved: March 26, 2001.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, VA proposes to amend 38 CFR Part 3 as follows:

## PART 3—ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1.The authority citation for Part 3, Subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

**§ 3.106 [Removed]**

2. Section 3.106 is removed.

### Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

3. The authority citation for part 3, subpart D continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

4. New § 3.2145 is added under the undesignated center heading **GENERAL** to read as follows:

**§ 3.2145 Can I voluntarily give up my VA benefits?**

(a)(1) Only a primary beneficiary may renounce (give up) the right to receive VA pension, compensation, or dependency and indemnity compensation (DIC) benefits. A primary beneficiary is anyone who is entitled to receive benefits in his or her own right. The renouncement of the right to receive benefits must be in writing and must be signed by the primary beneficiary or his or her fiduciary. No specific form is required to do so. Any renouncement must be for the entire benefit, not just a portion of it. VA will stop the renounced benefit payments effective the last day of the month in which the renouncement is received or, if payments have been suspended, the date of last payment.

(2) Apportionees and dependents on a primary beneficiary's award may not renounce benefits.

(b) A primary beneficiary who renounces the right to receive a VA benefit may reapply for the same benefit at any time. Except as provided in paragraph (c) of this section, VA will treat the new application as an original claim for that benefit. No payments may be made for any period prior to the receipt of the new application.

(c) If a former primary beneficiary reapplies for pension or parents' DIC within one year of renouncing the same benefit, then VA will determine entitlement as if the renouncement had never been received.

(d) The renouncement of benefits by a primary beneficiary does not increase benefits or create independent entitlement to benefits for any other person.

(Authority: 38 U.S.C. 5306)

[FR Doc. 01–23801 Filed 9–21–01; 8:45 am]

BILLING CODE 8320–01–P

## POSTAL SERVICE

### 39 CFR Part 111

### Production, Distribution, and Use of Postage Meters (Postage Evidencing Systems) and Postal Security Devices

**AGENCY:** Postal Service.

**ACTION:** Extension of comment period.

**SUMMARY:** The Postal Service published a proposed rule for public comment in the **Federal Register** (66 FR 42820–42831) on August 15, 2001. Comments were due September 14, 2001. The comment period is hereby extended until September 25, 2001.

**DATES:** The Postal Service must receive your comments on or before September 25, 2001. No additional extensions on the comment period will be granted.

**ADDRESSES:** Mail or deliver written comments to the Manager, Postage Technology Management, 1735 N Lynn Street, Room 5011, Arlington, VA 22209–6050. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** James Luff, 703–292–3693.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 01–23800 Filed 9–19–01; 4:46 pm]

BILLING CODE 7710–12–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[Region 2 Docket No. NJ48–229, FRL–7057–7]**

## Approval and Promulgation of Implementation Plans; New Jersey Reasonably Available Control Measure Analysis and Additional Ozone Control Measures

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a June 18, 2001 New Jersey State Implementation Plan (SIP) revision involving the State's one-hour Ozone Plan which is intended to meet two requirements: an analysis of Reasonably Available Control Measures and the need for additional emission reductions in order to attain the one-hour national ambient air quality standard for ozone. The SIP revision applies to the New Jersey portions of two severe ozone nonattainment areas—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. The intended effect of this action is to propose approval of programs required by the Clean Air Act.

**DATES:** Comments must be received on or before October 24, 2001.

**ADDRESSES:** All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the New Jersey submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625

**FOR FURTHER INFORMATION CONTACT:** Paul R. Truchan of the Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

**SUPPLEMENTARY INFORMATION:** This supplemental information section is organized as follows:

I. Overview
A. What action is EPA taking today?
B. What did New Jersey submit?
II. Reasonably Available Control Measure (RACM) Analysis
A. What are the requirements for RACM Technology?
B. How does the State analysis address the RACM requirement?
1. Consideration and Implementation of Transportation Control Measures (TCMs).
2. Consideration and Implementation of Stationary Source, Area Source, and other non-TCM Measures.
3. Results of RACM Analysis.
III. Additional Ozone Control Measures
A. Why additional emission reductions are needed?
B. What control measures will New Jersey propose?
C. What other efforts is New Jersey pursuing?
IV. Conclusions
V. Administrative Requirements

### I. Overview

#### *A. What Action Is EPA Taking Today?*

EPA is proposing approval of a June 18, 2001 New Jersey SIP submittal which includes: an analysis of Reasonably Available Control Measures (RACM) and the identification of the additional emission reductions needed to attain the one-hour national ambient air quality standard for ozone. After reviewing the SIP revision and considering it in light of EPA policy and guidance, EPA concludes that the emission reductions from the potential RACM measures will not advance the one-hour ozone attainment date and thus there are no additional potential RACM measures that can be considered RACM for New Jersey's two severe one-hour ozone nonattainment areas.

With respect to additional control measures designed to meet the one-hour ozone standard, New Jersey has identified the regional model rules developed by the Ozone Transport Commission as those which the State will be pursuing rulemaking for and which should result in sufficient emission reductions to achieve the reductions of volatile organic compounds (VOCs) and nitrogen oxides ( $NO_X$) needed to attain the one-hour ozone standard. New Jersey will be taking actions to adopt these measures separately from this SIP revision.

The submittal also includes an assessment of the progress New Jersey has made in attaining the one-hour ozone standard. The assessment shows a continued downward trend in both the number of violations of the standard and the measured ozone concentrations. While New Jersey submitted this SIP revision to fulfill its commitment to provide a mid-course review of its attainment status, EPA has determined that several more years of monitored data and implementation of the Regional $NO_X$ Program are needed before a true mid-course review of the attainment demonstration can be made. Therefore, EPA is not acting on the mid-course review at this time and expects New Jersey to supplement the existing analysis after further emission reductions have accrued.

#### *B. What Did New Jersey Submit?*

On June 18, 2001, New Jersey submitted the proposed revision to the SIP entitled ''Update to Meeting the Requirements of the Alternate Ozone Attainment Demonstration Policy: Additional Emission Reductions, Reasonably Available Control Measures (RACM) Analysis, and Mid-Course Review,'' and requested that EPA process the SIP revision in parallel with its administrative process. New Jersey held a public hearing on July 26, 2001 and is evaluating the comments that were received.

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this document, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New Jersey and submitted formally to EPA for incorporation into the SIP.

This submittal applies to the New Jersey portions of two severe ozone nonattainment areas—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. For purposes of this action these areas will be referred to, respectively, as the Northern New Jersey ozone nonattainment area (NAA) and the Trenton ozone NAA. The counties located within the Northern New Jersey NAA are: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, and Union. The counties within the Trenton NAA are: Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem.

## II. Reasonably Available Control Measure (RACM) Analysis

### *A. What Are the Requirements for RACM Technology?*

Section 172(c)(1) of the Act requires SIPs to contain RACM as necessary to provide for attainment as expeditiously as practicable. EPA has previously provided guidance interpreting the RACM requirements of section 172(c)(1). See the ''General Preamble for Implementation of Title I of the CAAA of 1990'' (General Preamble), 57 FR 13498, 13560. In that preamble, EPA stated that potentially available measures that would not advance the attainment date for an area would not be considered RACM. EPA also indicated in the General Preamble that states should consider all potentially available measures to determine whether they were reasonably available for implementation in the area, and whether they would advance the attainment date. Further, the General Preamble indicates that states should provide in the SIP submittals a discussion of whether the measures considered are reasonably available or not. If the measures are reasonably available, they must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM either because they would not advance the attainment date or would cause substantial widespread and long-term adverse impacts. States could also consider local conditions, such as economics or implementation concerns, in rejecting potential RACM. On November 30, 1999, John S. Seitz, Director, Office of Air Quality Planning and Standards, issued a memorandum on this topic, ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas' which reiterated the CAA RACM requirements and elaborated on the General Preamble.

### *B. How Does the State Analysis Address the RACM Requirement?*

New Jersey performed a RACM analysis which included an evaluation of potential transportation control measures (TCMs) for onroad mobile sources, potential control measures for point, area and offroad sources, and other non-TCM onroad control measures. New Jersey ranked the source categories by emission level to identify source categories with the greatest potential for additional control measure benefits. Individual measures were then evaluated with regard to their technical feasibility, economic feasibility and the speed at which they could be implemented. Finally, the sums of the estimated emissions benefits from the potentially implementable measures were then compared to the emission reductions required to advance the attainment dates for each nonattainment area. This analysis was performed for the New Jersey portions of the two severe nonattainment areas, the Trenton NAA and the Northern New Jersey NAA.

#### 1. Consideration and Implementation of Transportation Control Measures (TCMs)

The New Jersey Department of Environmental Protection (NJDEP) examined 15 prospective mobile source measures to determine if any of these TCMs could be considered reasonably available control measures. The measures considered for this RACM analysis were identified by the New Jersey Department of Transportation in consultation with NJDEP. New Jersey initially screened the candidate measures to determine if they were available for potential implementation, and then each measure analyzed for its potential emissions reduction benefit, economic impact, practicability and potential adverse impact. New Jersey analyzed each prospective emission control measure for each nonattainment area.

The mobile source measures the State analyzed can be grouped into the following five categories; Travel Demand Management and Commuter Choice, Transportation Pricing Strategies and Scenarios, Traffic Flow Improvements, Transit Projects and Transit Oriented Design and Vehicle Fuel and Technology. The State also examined two non-mobile source land use related measures which have the potential to reduce vehicle miles traveled and vehicle emissions.

The State's analysis found that none of the TCM's, singularly or in combination, will yield emissions benefits sufficient to advance the attainment dates for the respective New Jersey ozone nonattainment areas. The range of combined emissions benefits from VOC and $NO_X$ was 0.0 tons/day to 2.054 tons/day in the New Jersey portion of the Northern New Jersey NAA and from 0.0 tons/day to 1.10 tons/day in the New Jersey portion of the Trenton NAA. In addition, the State also found that implementing certain measures is not cost effective. These TCMs are not reasonably available at this time, nor may they be able to generate significant emission reductions by the attainment date. However, over a longer period some of them may prove to be reasonable, particularly with respect to an eight-hour ozone standard with an attainment date further into the future.

Two land use measures were also reviewed and evaluated for their potential impact to reduce vehicle miles traveled and emissions. The measures were developed to achieve other State goals and include the statewide programs: Open Space Preservation Program in which the State commits to preserving 1,000,000 acres of open space over a ten-year period, and New Development and Redevelopment Plan which is based on ''smart growth'' principles.

The estimated emissions benefits in 2006 for the Open Space Preservation Program are approximately 0.11 tons per/day of VOCs and $NO_X$ with an estimated cost per ton of $1.78 million. However, it is important to note that this program would provide many other environmental and public benefits and costs should not be judged on air quality alone. This 10 year program can not be phased in faster and fully implemented by the attainment date for the two NAAs. Thus, it is not anticipated to advance the attainment dates in the New Jersey NAAs.

The estimated emissions benefits in 2006 for the State Development and Redevelopment Plan are approximately 0.452 ton per/day of VOCs and $NO_X$. The cost per ton was not quantifiable in the scope of this analysis. In addition, the State plan is a voluntary plan and has no force of law under municipal home rule. This limits EPA's ability to enforce such a program as part of a SIP. Like the Open Space Preservation Program, this program would provide many other environmental and public benefits and costs should not be judged on air quality alone. Furthermore, long lead times would be required before this measure could be effective on a regional scale and it is not anticipated to advance the attainment dates in the New Jersey nonattainment areas.

#### 2. Consideration and Implementation of Stationary Source, Area Source, and Other Non-TCM Measures

The NJDEP sorted the projected attainment year VOC and $NO_X$ emission inventories (2005 for the Trenton NAA and 2007 for the Northern New Jersey NAA) by size of each source category for each nonattainment area. Considering VOC and $NO_X$ emissions separately, New Jersey examined all source categories with emissions of 5 tons per day or greater for potential application of new control measures. NJDEP evaluated 29 VOC source categories and 25 $NO_X$ source categories. The analysis for feasibility of potential controls for

each source category included evaluation of the potential emissions reduction benefit, technical and economic feasibility, and analysis of whether the measure could be implemented in time to advance the attainment date. New Jersey analyzed the prospective emission control measures for each nonattainment area.

3. Results of RACM Analysis

New Jersey identified six potentially implementable control measures which have a combined potential emission reduction benefit of 2.2 tons per day of VOC and 0.4 tons per day of $NO_X$ in 2004 for the Trenton NAA and 7.3 tons per day of VOC and 3.3 tons per day of $NO_X$ in 2006 for the Northern New Jersey NAA. In order to assess whether these emission reductions would advance the attainment date for each area, New Jersey compared these potential emission reductions to the emission reductions which are projected to occur in New Jersey in the year before the attainment year from the adopted control measures and the additional control measures identified in this SIP revision, (i.e, compare these reductions to the reductions projected for 2004 for the Trenton NAA and reductions projected for 2006 for the Northern New Jersey NAA). For both nonattainment areas, the combined benefit from all the potential control measures is less than the emission reductions which will be occurring in the year before the attainment year. Therefore, no TCM or other measure, either singularly or combined, has been identified which could advance the attainment dates of either area and be considered RACM.

EPA has reviewed the RACM analysis and finds that the documentation New Jersey provided supports the State's conclusions. New Jersey evaluated all source categories that could contribute meaningful emission reductions. An extensive list of potential control measures was identified and reviewed. The State considered the time needed to implement these measures as a further screen of their reasonableness and availability. However, EPA believes that some of these control measures may offer some benefits in the future for purposes of an eight-hour ozone standard, and recommends that New Jersey and other states in the OTR revisit these controls in the context of any future planning obligations.

Therefore, EPA is proposing to approve New Jersey's RACM analysis and to determine that there are no individual or combined measures that are technically and economically feasible and that would advance the one-hour ozone attainment dates for the two severe nonattainment areas in New Jersey.

## III. Additional Ozone Control Measures

### *A. Why Additional Emission Reductions Are Needed?*

When EPA evaluated New Jersey's one-hour ozone attainment demonstrations, EPA determined that additional emission reductions were needed for the two severe nonattainment areas in order to attain the one-hour ozone standard with sufficient surety (December 16, 1999, 64 FR 70380). The table below identifies the additional emission reductions needed for the two nonattainment areas.

TABLE 1.—EPA IDENTIFIED ADDITIONAL EMISSION REDUCTIONS

| Nonattainment area | Additional required emission reductions (tons per day) | |
|---|---|---|
| | VOC | $NO_X$ |
| Philadelphia, Wilmington, Trenton | 62 | 3 |
| New York, Northern New Jersey, Long Island | 85 | 7 |

EPA provided that the States in the OTR could achieve these emission reductions through regional control programs. New Jersey decided to participate with the other states in the Northeast in an Ozone Transport Commission (OTC) regulatory development effort. New Jersey has been an active participant in the OTC's process of developing regional control strategies that would achieve the necessary additional reductions to attain the one-hour ozone standard.

### *B. What Control Measures Will New Jersey Propose?*

New Jersey has decided to proceed with State rulemaking efforts for the source categories for which the OTC developed model rules. This includes the following source categories:

VOC Control Measures

Commercial and consumer products,
Architectural and industrial maintenance coatings,
Solvent cleaning operations,
Mobile equipment repair and refinishing operations, and
Portable fuel containers.

$NO_X$ Control Measures

Industrial boilers,
Stationary combustion turbines, and
Stationary internal combustion engines.

New Jersey will be proposing rules for these source categories in separate rulemakings and taking public comment on the actual regulations and the basis and background which support the regulations. The purpose of this portion of the SIP submittal is to provide information in advance of New Jersey's rulemaking as to which source categories will be proposed and to provide a projection of the emission benefits from these proposed control measures. The State also provided evidence that the cumulative benefit from these measures will be sufficient to meet the additional emission reductions EPA identified as being needed to insure attainment of the one-hour ozone standard in the multi-state nonattainment areas. EPA will evaluate whether the adopted measures meet the shortfall at the time it evaluates the submitted measures as SIP revisions.

Applying OTC model rule's projected emission reductions to the VOC and $NO_X$ inventories, the State has determined and EPA agrees that the entire New York, Northern New Jersey, Long Island Area NAA will have sufficient emission reductions in both VOC and $NO_X$ to attain the one-hour ozone standard. In the Philadelphia, Wilmington, Trenton NAA, excess $NO_X$ emission reductions will need to be substituted for VOC reductions in order to achieve the VOC emission reduction target. Implementation of the OTC measures statewide will result in additional emission reductions that will be beneficial towards attaining the ozone standard in the Philadelphia, Wilmington, Trenton NAA. See Table 2 for estimated emission reductions and required additional emission reductions for the entire nonattainment area.

TABLE 2.—ESTIMATED EMISSION REDUCTIONS FROM THE PROPOSED CONTROL MEASURES

| Control measure | Philadelphia, Wilmington, Trenton NAA | | New York, Northern New Jersey, Long Island Area NAA | |
|---|---|---|---|---|
| | VOC (tpd) | $NO_X$ | VOC (tpd) | $NO_X$ (tpd) |
| Commercial and Consumer Products | 9 | ..... | 26 | ..... |
| Architectural and Industrial Maintenance Coatings | 19 | ..... | 42 | ..... |
| Solvent Cleaning Operations | 20 | ..... | 7 | ..... |
| Mobile Equipment Repair and Refinishing Operations | 6 | ..... | 20 | ..... |
| Portable Fuel Containers | 5 | ..... | 25 | ..... |
| Selected Stationary Sources of $NO_X$ Reductions | ..... | 6 | ..... | 22 |
| Total Projected Reductions | 59 | 6 | 120 | 22 |
| Needed Reductions | 62 | 3 | 85 | 7 |

*C. What Other Efforts Is New Jersey Pursuing?*

New Jersey is pursuing three additional strategies: applying the OTC model rules to the three attaining counties in New Jersey, heavy duty diesel engine compliance assurance requirements, and more stringent requirements for gasoline transfer operations.

**IV. Conclusions**

EPA is proposing to approve New Jersey's RACM analysis along with it's conclusions that there are no additional control measures available that are technically or economically feasible and that whose emission reductions would advance the attainment dates of 2005 for the Trenton NAA or 2007 for the Northern New Jersey NAA. EPA finds that the additional control measures that New Jersey will be proposing, coupled with those to be implemented by other states in the nonattainment area, should result in sufficient additional emission reductions to attain the one-hour ozone standard by 2005 for the Trenton NAA and 2007 for the Northern New Jersey NAA. However, EPA will evaluate the measures and associated emission reductions at the time they are submitted as a SIP revision.

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

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 10, 2001.

**William J. Muszynski,**

*Acting Regional Administrator, Region 2.*

[FR Doc. 01–23220 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[TX–104–1–7401b; FRL–7063–3]**

## Approval and Promulgation of Implementation Plans; Texas; Revisions to General Rules and Regulations for Control of Air Pollution by Permits for New Sources and Modifications

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to take direct final action to approve revisions of the Texas State Implementation Plan (SIP). Specifically, EPA is approving revisions to regulations of the Texas Natural Resource Conservation Commission (TNRCC) which relate to definitions in Texas' general rules and to regulations relating to the permitting of new sources and modifications. The revisions that EPA is approving in this action are to recodify several provisions of the existing SIP without substantive changes and approve provisions for permit alterations which will strengthen the SIP as it pertains to the permitting of new and modified sources. Approval of these revisions will bring the federally-approved SIP which pertains to the permitting of new and modified sources more closely in line with Texas' existing program. This action will better serve the State, the public, and the regulated community by making the approved SIP more closely match the rules that Texas currently implements. The approval of these revisions is independent of, and will not adversely affect, other SIP actions that EPA and TNRCC are currently undertaking to ensure the attainment and maintenance of air quality in the Dallas-Fort Worth, Houston-Galveston, and Beaumont-Port Arthur regions of Texas. The EPA is approving revisions which Texas submitted in 1998 to the extent that they are equivalent to revisions that Texas previously submitted in 1993. The EPA is taking no action on certain provisions which relate to emissions reduction credits and offsets, permit exemptions, permit renewals, and emergency orders, which are not in the current SIP and for reasons discussed in the direct final action.

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comment, EPA will not take further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** Written comments must be received by October 24, 2001.

**ADDRESSES:** Please address written comments on this action to Ms. Jole C. Luehrs, Chief, Air Permits Section, Attention: Stanley M. Spruiell, at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

EPA, Region 6, Air Permits Section (6PD-R), 1445 Ross Avenue, Dallas, Texas 75202–2733.

TNRCC, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Stanley M. Spruiell of the Air Permits Section at (214) 665–7212, or at *spruiell.stanley@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This document concerns revisions to regulations of TNRCC which relate to definitions in Texas' general rules and to regulations relating to the permitting of new sources and modifications. For further information, please see the information provided in the direct final action that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

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

Dated: September 12, 2001.

**Gregg A. Cooke,**

*Regional Administrator, Region 6.*

[FR Doc. 01–23625 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 70

**[AD–FRL–7064–2]**

## Clean Air Act Final Approval of Operating Permits Program; State of New Hampshire

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes full approval of the Clean Air Act operating permit program submitted by the State of New Hampshire. In the Final Rules Section of this **Federal Register**, EPA is approving the New Hampshire Operating Permit Program as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no relevant adverse comments in response to this action, we contemplate no further activity. If EPA receives relevant adverse comments, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATE:** Comments must be received on or before October 24, 2001.

**ADDRESSES:** Comments may be mailed to Steven Rapp, Unit Manager, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal, and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA.

**FOR FURTHER INFORMATION CONTACT:** Ida E. Gagnon, (617) 918–1653.

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: September 14, 2001.

**Ira W. Leighton,**

*Acting Regional Administrator, EPA New England.*

[FR Doc. 01–23764 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–2161, MM Docket No. 01–245 , RM–10235]**

## Digital Television Broadcast Service; Lufkin, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Civic License Holding Company, Inc., licensee of station KTRE(TV), NTSC channel 9, Lufkin, Texas, proposing the substitution of DTV channel 11 for DTV channel 43 at Lufkin. DTV Channel 11 can be allotted to Lufkin, Texas, in compliance with the principle community coverage requirements of

Section 73.625(a) at reference coordinates (31–25–09 N. and 94–48–03 W.). As requested, we propose to allot DTV Channel 11 to Lufkin with a power of 9.25 and a height above average terrain (HAAT) of 204 meters.

**DATES:** Comments must be filed on or before November 13, 2001, and reply comments on or before November 28, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott S. Patrick, Dow, Lohnes & Albertson, 1200 New Hampshire Avenue, NW, Suite 800, Washington, DC 20036–6802 (Counsel for Civic License Holding Company, Inc.).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–245, adopted September 14, 2001, and released September 19, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document 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.*

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

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

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

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

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

## PART 73—TELEVISION BROADCAST SERVICES

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

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

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV Channel 43 and adding DTV Channel 11 at Lufkin.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–23710 Filed 9–21–01; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–2160, MM Docket No. 01–244, RM–10234]**

## Digital Television Broadcast Service; Tyler, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Civic License Holding Company, Inc., licensee of station KLTV(TV), NTSC channel 7, Tyler, Texas, requesting the substitution of DTV channel 10 for DTV channel 38. DTV Channel 10 can be allotted to Tyler, Texas, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (32–32–23 N. and 95–13–12 W.). As requested, we propose to allot DTV Channel 10 to Tyler with a power of 7.0 and a height above average terrain (HAAT) of 302 meters.

**DATES:** Comments must be filed on or before November 13, 2001, and reply comments on or before November 28, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott S. Patrick, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, NW., Washington, DC 20036–6802 (Counsel for Civic License Holding Company, Inc.).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–244, adopted September 14, 2001, and released September 19, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document 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.*

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

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

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

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

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

## PART 73—TELEVISION BROADCAST SERVICES

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

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

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV Channel 38 and adding DTV Channel 10 at Tyler.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–23709 Filed 9–21–01; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

### 49 CFR Part 1111

**[STB Ex Parte No. 586]**

### Arbitration—Various Matters Relating to Its Use as an Effective Means of Resolving Disputes That Are Subject to the Board's Jurisdiction

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Board is instituting this proceeding to address various matters relating to arbitration of disputes in lieu of Board adjudication. The Board is proposing to: Update the Board's files regarding qualified arbitrators that are available to handle the types of disputes that could be brought to arbitration under the Board's existing rules at 49 CFR 1108; establish a requirement that a formal complaint include a statement that the complainant has considered arbitration but either decided against it or could not obtain the agreement of the other parties to the dispute; and solicit public comments, in order to assist Congress, by providing a record on whether binding arbitration should be legislatively prescribed for small rate disputes.

**DATES:** An original and 10 copies of written comments are due by November 23, 2001, and an original and 10 copies of replies are due December 24, 2001. In addition, parties must submit to the Board, on 3.5-inch IBM-compatible floppy diskettes (in, or convertible by and into, Word Perfect 9.0 format) an electronic copy of their comments, including any graphics. The diskettes shall be clearly labeled with the filer's name and the docket number, STB Ex Parte No. 586. Any party may seek a waiver from the electronic submission requirements.[1]

Additionally, all interested qualified persons (those experienced in rail transportation or economic issues similar to those arising before the Board) who wish to be placed on a roster of arbitrators available to arbitrate disputes pursuant to 49 CFR 1108 (including those who previously submitted their names and qualifications in 1997, if they remain available) should submit (or, as relevant, resubmit) an original and 3 copies of their names and qualifications by November 8, 2001.

**ADDRESSES:** All pleadings, referring to STB Ex Parte No. 586, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. Copies of the written comments and replies will be available from the Board's contractor, Dā-2-Dā Legal, 1925 K Street, NW., Room 405, Washington, DC 20423–0001, phone (202) 293–7776. The comments and replies will also be available for viewing and self-copying in the Board's Microfilm unit, Room 755, and posted on the Board's Web site (*www.stb.dot.gov*).

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565–1600. (TDD for the hearing impaired: 1–800–877–8339).

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Board's decision. To purchase a copy of the decision, write to, call, or pick up in person from Dā-2-Dā Legal. The decision is also posted on the Board's Web site at *www.stb.dot.gov.*

### List of Subjects in 49 CFR Part 1111

Administrative practice and procedure.

**Authority:** 49 U.S.C. 721(a).

Decided: September 18, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

**Vernon A. Williams,**

*Secretary.*

For the reasons set forth in the preamble, title 49, chapter X, part 1111 of the Code of Federal Regulations, is proposed to be amended as follows:

## PART 1111—[AMENDED]

1. The authority citation for 1111 continues to read as follows: 49 U.S.C. 721, 10704, and 11701.

2. In § 1111.1(a), paragraph (11) is added to read as follows:

**§ 1111.1 Content of formal complaints; joinder.**

* * * * *

(a) * * *

(11) For matters for which voluntary, binding arbitration is available pursuant to 49 CFR part 1108, the complaint shall state that arbitration was considered, but rejected, as a means of resolving the dispute.

* * * * *

[FR Doc. 01–23769 Filed 9–21–01; 8:45 am]

BILLING CODE 4915–00–P

[1] Documents transmitted by facsimile (FAX) or electronic mail (e-mail) will not be accepted.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 697

**[I.D. 091701B]**

### American Lobster; Intent To Prepare an Environmental Impact Statement

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

**ACTION:** Notice of intent (NOI) to prepare an environmental impact statement (EIS); request for comments.

**SUMMARY:** NMFS announces its intent to prepare an EIS to assess the impact on the human environment of potential management measures for the American lobster fishery in the U.S. Exclusive Economic Zone (EEZ). This NOI requests public input in the form of written comments regarding issues that NMFS should address in the EIS relative to Addendum II to Amendment 3 of the Interstate Fishery Management Plan for American lobster (ISFMP).

**DATES:** Written comments on the intent to prepare the EIS must be received no later than 5 p.m. Eastern Standard Time on or before October 24, 2001.

**ADDRESSES:** Written Comments should be sent to Harold C. Mears, Director, State, Federal, and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via fax to (978) 281–9117. Comments submitted via e-mail or Internet will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Peter Burns, (978) 281–9144, fax (978) 281–9117, e-mail *peter.burns@noaagov.*

**SUPPLEMENTARY INFORMATION:** The fishery for American lobster takes place from North Carolina to Maine. More than 50 percent of American lobsters harvested are landed in Maine, with the balance landed mostly in or from Massachusetts, Rhode Island, Long Island Sound, and Georges Bank. Over 80 percent of the lobster harvest occurs in state waters, which extend from the coast to 3 nautical miles (5.56 km) from shore. The lobster fishery occurs year-round in the United States, including the summer and fall months when the lobsters are molting. Approximately 97 percent of lobsters are taken in lobster traps. The rest are taken in trawls, gillnets, dredges, and by divers.

Prior to December 1999, the American lobster resource was managed in state waters by the Atlantic States Marine

Fisheries Commission (ASMFC), and in Federal waters by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Acknowledging that approximately 80 percent of the American lobster harvest occurs in state waters, and in an effort to establish a more effective lobster management regime by enhancing interjurisdictional cooperation, NMFS issued a final rule in December 1999 (64 FR 68228) for the American lobster fishery. This action transferred authority for the management of the lobster resource in the EEZ from the Magnuson-Stevens Act to the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). Consequently, NMFS has the authority under the ACFCMA to implement regulations in Federal waters that are compatible with the effective implementation of the ISFMP and consistent with the national standards of the Magnuson-Stevens Act. Such Federal regulations are promulgated pursuant to ACFCMA at 50 CFR part 697.

Amendment 3 of the ISFMP was approved by the ASMFC in December 1997 to achieve a healthy American lobster resource and to develop a management regime that provides for sustained harvest, maintains opportunities for participation, and provides for the cooperative development of conservation measures by all stakeholders. Following the May 2000 release of an updated peer-reviewed lobster stock assessment (ASMFC Stock Assessment Peer Review Report No. 00-01), which revised lobster egg production estimates and confirmed that overfishing of lobster stocks is occurring throughout the species range, the ASMFC developed Addendum II to Amendment 3 for implementing additional measures needed to rebuild American lobster stocks. Addendum II, approved in February 2001, establishes a revised egg production schedule to restore egg production in each lobster conservation management area (LCMA) to greater than the overfishing definition by the end of 2008. Measures under the addendum to help achieve this goal include a series of minimum gauge size increases and an increase in the minimum escape vent size of lobster trap gear fished in state and Federal waters of LCMA 2 (inshore Southern New England), LCMA 3 (offshore waters), LCMA 4 (inshore Northern Mid-Atlantic), LCMA 5 (inshore Southern Mid-Atlantic), and the Outer Cape Management Area, but not of LCMA 1 (Gulf of Maine) and LCMA 6 (Long Island Sound). The addendum also calls for a revised timeline for LCMA 3 lobster trap reductions, previously approved by the ASMFC under Addendum I. By approving Addendum II, the States have agreed to implement the first annual LCMA-specific gauge increases by December 31, 2001, and to implement the escape vent increase by 2003. In a letter dated February 13, 2001, the ASMFC recommended that NMFS implement complementary Federal measures for Federal waters of LCMAs 2, 4, 5, and the Outer Cape, as well as of LCMA 3 (comprising entirely Federal waters).

Specifically, the minimum allowable harvest size of American lobster in state waters of LCMAs 2, 4, 5 and the Outer Cape is scheduled to increase from 3 1/4 inches (in) (8.26 cm) to 3 9/32 in (8.33 cm) in 2001, and to be increasing 1/32 in (0.08 cm) annually until 2004 to an ultimate minimum size of 3 3/8 in (8.57 cm). The ASMFC recommends that the gauge increases in Federal waters of LCMAs 2, 4, 5, and the Outer Cape, as well as of LCMA 3, follow this same schedule. If the egg production targets of the ISFMP have not been reached by 2004, ASMFC further recommends additional annual increases in LCMA 3 of 1/32 in (0.08 cm), until 2008, to an ultimate minimum size of 3 1/2 in (8.89 cm). The current minimum allowable harvest size for American lobster in all Federal waters is 3 1/4 in (8.26 cm).

Under Addendum II, states will require all lobster traps to have at least one rectangular escape vent measuring 2 in (5.08 cm) by 5 3/4 in (14.61 cm) per trap, or at least two circular escape vents per trap, measuring 2 1/2 in (6.35 cm) in diameter. The ASMFC recommends that Federal regulations implement these new lobster trap escape vent size requirements in Federal waters. At the current time, Federal regulations require that all lobster trap gear have a rectangular portal with an unobstructed opening not less than 1 15/16 in (4.92 cm) by 5 3/4 in (14.61 cm); or two circular portals with unobstructed openings not less than 2 7/16 in (6.19 cm) in diameter.

Also, Addendum II recommends that the lobster trap reduction schedule previously adopted by the ASMFC for LCMA 3 under Addendum I of Amendment 3 to the ISFMP be updated to account for the elapsed time between the two addenda. The updated LCMA 3 trap reduction schedule requires that each LCMA 3 trap allocation of greater than 1,200 lobster traps be reduced on a sliding scale basis over 4 years, not to fall below 1,200 lobster traps. LCMA 3 allocations of less than 1,200 lobster traps would remain at their initial qualifying level and not increase from that baseline number. No allocation would exceed 2,656 lobster traps during the first year of implementation. At the end of the fourth year, the maximum number of lobster traps allowed for any vessel would be 2,267. Under current Federal regulations, lobster trap fishing effort in LCMA 3 is restricted to a fixed maximum limit of 1,800 lobster traps per vessel. Implementation of the updated lobster trap reduction schedule for LCMA 3 is contingent upon Federal rulemaking procedures currently underway to address historical participation in the lobster trap fishery as recommended by the ASMFC in Addendum I.

Addendum II, furthermore, recommends that NMFS require LCMA 3 lobstermen to maintain vessel logs to record lobster harvest. Current Federal regulations do not require vessel logs. Another component of the addendum includes a review of management measures in all LCMAs, by June 2001, to determine whether other measures are needed to achieve ISFMP stock rebuilding objectives. Any adjustments would be adopted by ASMFC as a separate addendum by January 2002, at which time ASMFC may recommend further changes to Federal regulations.

NMFS published an advance notice of proposed rulemaking (ANPR) in the Federal Register on May 24, 2001, (66 FR 28727) to seek public comment on whether NMFS, under the ACFCMA, should implement Addendum II's revised egg production schedule in all EEZ areas throughout the range of the lobster resource and implement the associated management measures (gauge increases, modifications to lobster trap gear requirements and LCMA 3 lobster trap reduction schedule, and vessel log reporting requirement) in the Federal waters of the applicable LCMAs.

A total of 16 comments were received on or before the deadline in response to the ANPR, submitted by 15 individual lobster trap fishermen and 1 representative of a lobster fishermen's organization. Fifteen comments were received in favor of the recommended minimum gauge and escape vent size increases, one of which favored Area 3 gauge increases only up to a limit of 3 3/8″. One commenter was opposed to any minimum gauge or escape vent size increases. Eleven commented that they support the implementation of an accelerated lobster trap reduction schedule for Area 3, but three fishermen supported the current 1,800 trap cap in Area 3, while still allowing only vessels that qualify under a historical participation effort reduction program to participate in the Area 3 trap fishery. Several of the comments emphasized

that the implementation of the Area 3 lobster trap reduction schedule is necessary in order to benefit the lobster resource, minimize gear conflicts, and decrease the chance of interactions between lobster gear and marine mammals. Fourteen of the comments received support the implementation of a mandatory logbook requirement in Area 3. Federal lobster permit holders will be affected by actions resulting from the subsequent EIS if regulations that restrict further the minimum legal size of lobster, implement a revised lobster trap reduction schedule for LCMA 3, increase the escape vent size, and require logbooks are promulgated. Accordingly, NMFS requests public input on these issues to assist in conducting a comprehensive assessment of the impacts of these and other associated measures to the human and natural environment in the EIS.

**Authority:** 16 U.S.C 5101 *et seq.*

Dated: September 18, 2001.

**Bruce C. Morehead,**

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

[FR Doc. 01–23793 Filed 9–21–01; 8:45 am]

BILLING CODE 3510–22–S

# Notices

Federal Register

Vol. 66, No. 185

Monday, September 24, 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

### Revised Land and Resources Management Plans for Angeles, Cleveland, Los Padres, and San Bernardino National Forests, CA

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Intent to prepare an environmental impact statement.

**SUMMARY:** The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement (EIS) in conjunction with the revision of the Land and Resources Management Plans (hereinafter referred to as Forest Plans) for the Angeles, Cleveland, Los Padres, and San Bernardino National Forests.

This notice describes the specific portions of the current Forest Plans to be revised, environmental topics to be considered in the revision, estimate dates for filing the environmental impact statement, information concerning public participation, and the names and addresses of the agency officials who can provide additional information.

The Forest Service intends to update Forest Plans that will describe how the four southern California National Forests will be managed. This coordinated process will achieve consistent management direction in a consistent format across the four Forests. There is a great deal of commonality among the four Forests in terms of the ecosystem types and management challenges. One Environmental Impact Statement (EIS) will be prepared with one Record of Decision (ROD) signed by the responsible official, the Regional Forester, Brad Powell.

**BACKGROUND:** In 1999, the Forest Supervisors determined that Forest Plan revisions were needed because significant changes had occurred in conditions and demands. For example, in 1989, there were seventeen species listed as threatened or endangered on the four southern California Forests. In 1999, there were fifty-nine listed species. At present, there are sixty-two listed species and one proposed for listing as threatened or endangered.

Between 1995 and 1999, the four southern California Forests initiated a large scale analysis of ongoing activities and their effects on species and habitat. In 1999 a comprehensive habitat conservation assessment, the Southern California Mountains and Foothills Assessment (SCFMA) was published. An interdisciplinary team, drawn from the four southern California National Forests and the Pacific Southwest Research Station, used the SCMFA and other forest documents to review how well the Forest Plans met the needs of threatened, endangered and sensitive (TES) species. The team's analysis, called the Province Forest Plan Monitoring and Evaluation Report (M&E Report), identified a number of areas where existing Forest Plans do not adequately protect TES species or provide direction necessary to sustain particular ecological communities. The M&E Report recommends revision of the Forest Plans and identifies some of the specific portions of the Forest Plans that need to be revised.

**SUPPLEMENTARY INFORMATION:**

#### Planning Regulations

A USDA Forest Service review of the November 9, 2000, planning rule identified concerns with the implementability of several provisions of the 2000 rule. There are also currently several lawsuits challenging the 2000 rule that may affect its implementation.

To address these problems, the Chief of the Forest Service started a process to revise the planning rule, with an anticipated schedule for the rule to be finalized in the spring of 2002. Meanwhile, an interim final rule was published in the **Federal Register** May 17, 2001. The May 17, 2001 interim rule allows Forest Plan revisions or amendments initiated prior to May 9, 2002, to be completed under either the 1982 rule or the 2000 rule. We will proceed under the 1982 rule.

#### Relationship to the Center for Biological Diversity Lawsuit Settlement

In September of 1998, the Southwest Center for Biological Diversity (now the Center for Biological Diversity) filed a lawsuit seeking to prohibit a wide range of management activities on the southern California National Forests until the Forest Plans were brought into compliance with the Endangered Species Act (ESA). A settlement agreement was signed by the Court on March 1, 2000. Under the terms of the settlement, a draft Environmental Impact Statement (EIS) to support revised Forest Plans is anticipated to be released in 2002.

**DATES:** Public collaboration regarding the Forest Plan revision analysis began in January 2001. Comments concerning the proposed action should be received in writing by December 31, 2001. Comments or suggestions regarding the development of alternatives should be received by February 15, 2002. Any comments received after February 15, 2002 will be accepted; but may not be reflected in the draft EIS. They may be reflected in the final EIS. The agency expects to file a Draft Environmental Impact Statement (DEIS) with the Environmental Protection Agency (EPA) and make it available for public, agency, and tribal government comment in the fall of 2002. A Final Environmental Impact Statement (FEIS) is currently expected in the fall of 2003.

**ADDRESSES:** Send written comments to Forest Planning Team, 10845 Rancho Bernardo Road, Suite 200, San Diego, CA 92127–2107 or electronically to *socalforests@fs.fed.us.*

**FOR FURTHER INFORMATION CONTACT:** Skippy Willis, Planning Team Public Affairs Officer, (858) 524–0140. Or call the Forest Plan update toll free recording at 1–866–252–8846 for information regarding time line, public workshops, and meetings and other pertinent information or the web site *www.r5.fs.fed.us/sccs.*

*Responsible Official:* Brad Powell, Regional Forester, Pacific Southwest Region. 1323 Club Drive, Vallejo, CA 94592.

*Decision Made in a Forest Plan:* Forest Plans describe the intended management of National Forests. The following types of decisions are made in Forest Plans:

1. Establishment of forest-wide objectives, with a description of the desired condition;

2. Establishment of forest-wide management standards;

3. Establishment of management areas and management prescriptions;

4. Establishment of lands suitable for the production of timber;

5. Establishment of monitoring and evaluation requirements; and

6. Recommendations to Congress of areas eligible for wilderness or wild and scenic river designation.

Forest Plans do not make any decisions regarding site-specific project proposals for implementing the plan. Project level environmental analysis would still need to be completed and the project must be consistent with the Forest Plan.

*The Need for Change:* This revision focuses on the most compelling needs for change in Forest Plan management direction. The USDA Forest Service expects this revision to include updated management direction for species and habitat protection; roads, trails, and access; recreational conflict resolution; special areas (Wild and Scenic Rivers, Research Natural Areas, and Special Interest Areas); roadless areas and potential wilderness recommendations; rangeland suitability; wildfire and prescribed fire management; suitable timber lands; recreation residences, and additional new direction regarding shooting; land ownership adjustments; communication sites; and possible other resource concerns identified through the scoping process.

*Purpose and Need:* The purpose and need of this proposed action is:

a. To establish new or revised management direction for all activities and uses of these forests based on the most current science and the findings of the Southern California Mountains and Foothills Assessment, the Province Forest wide Monitoring and Evaluation Report, and recent consultations with the Department of Interior Fish and Wildlife Service and Department of Commerce National Marine Fisheries Service;

b. To address conditions that have changed since original plans for these four Forest were approved (1986–89) and to provide consistent management direction (as appropriate) across the four Forests;

c. To meet the National Forest Management Act requirement for all Forests to revise their Forest Plans every 10–15 years;

d. To bring management direction up-to-date with increased population, increased demand for recreation, and corresponding resource and recreational use conflicts;

e. To more adequately protect plant and animal species and their habitat;

f. To more clearly emphasize and direct the use of prescribed fire to restore ecosystem function and integrate the National Fire Plan Direction; and

g. To incorporate other new scientific information that has been recently become available into current management direction and revise and update the monitoring plans.

*Public Participation:* In February 2000, the USDA Forest Service published the Southern California Mountains and Foothills Assessment, and sponsored a symposium for over 300 scientists and members of the public. Since then, the Forest Service has conducted numerous meetings with tribal governments, and those meetings are currently ongoing on each Forest.

From January through March, 2001, the USDA Forest Service held public workshops across southern California to develop a list of values and visions for the National Forests in southern California.

On March 15, 2001, public notice was given regarding beginning the Forest Plan revision process in the Los Angeles Times, San Diego Union Tribune, Sacramento Bee, and Santa Barbara New Press. On March 16, 2001, public notice was given regarding beginning the revision process in the San Bernardino Sun.

During the period of March 15, 2001–May 7, 2001, the agency made available for public review the following information: preliminary issues, the Southern California Mountains and Foothills Assessment, an evaluation of effectiveness of current Plans in complying with the Endangered Species Act, proposals for special areas such as key or core habitat areas, potential Wild and Scenic Rivers, watersheds in need of protection or restoration, lands classified as unsuitable for timber production, evaluations of inventoried roadless and unroaded areas, and estimated outcomes of continued management under current Forest Plans. Al of the information was available on the website through July 15, 2001. Comments received after May 7th were accepted.

Preliminary concerns surfaced during these initial, informal stages of public involvement can be summarized as follows: conflicts between different types of recreation, desire for continued or improved access, desire for additional special area designations, concerns regarding species and habitat protection and others.

The next phase of public involvement for this proposed Forest Plan revision will consist of workshops and public meetings to be announced during the scoping period for this proposal. Currently scheduled meetings are as follows:

Angeles National Forest

- October 25, 2001, 6:00–9:00 pm, Glendora Public Library, 140 S. Glendora Avenue, Glendora, CA.
- November 13, 2001, 6:00–9:00 pm, Pasadena Conference Center, 300 E. Green Street, Pasadena, CA.
- November 19, 2001, 6:00–9:00 pm, Lake View Terrace Recreation Center, 11075 Foothill Boulevard, Lake View Terrace, CA.
- November 27, 2001, 7:30–9:30 pm, Wrightwood Community Center, 1275 Highway 2, Wrightwood, CA.
- December 4, 2001, 6:00–9:00 pm, California State University, Los Angeles, Student Union, 5154 State University Drive, Los Angeles, CA.

Cleveland National Forest

- October 24, 2001, 6:00 pm, Alpine Community Center, 1830 Alpine Blvd., Alpine CA
- November 3, 2001, 9:30 am, Nydegger Building, 31421 La Matanza, San Juan Capistrano, CA
- November 7, 2001, 6:00 pm, East Valley Community Center, 2245 East Valley Parkway, Escondido, CA
- November 10, 2001, 9:30 am, Ramona Community Center, 434 Aqua Lane, Ramona
- November 17, 2001, 12:30 pm, Chula Vista Library, Literacy Team Center, 389 Orange Ave., Chula Vista, CA

Los Padres National Forest

- October 25, 2001, 6:00–9:00 pm South County Regional Center, 800 West Branch Street, Arroyo Grande, CA.
- October 30, 2001, 6:00–9:00 pm Goleta Valley Community Center, 5679 Hollister Avenue, Goleta, CA.
- November 1, 2001, 6:00–9:00 pm Salinas Community Center, Santa Lucia Meeting, 940 N. Main Street, Salinas, CA.
- November 7, 2001, 6:00–9:00 pm Rancho del Ray Conference Center, 655f Burnham Road, Oak View, CA.
- November 8, 2001, 6:00–9:00 pm Community Hall, 300 Park Drive, Frazier Park, CA.

San Bernardino National Forest

- October 30, 2001, 6:00–9:00 pm Houston Senior Community Center, 2929 Running Springs School Road, Running Springs, CA
- November 1, 2001, 6:30–9:30 pm Bonnie Oehl Elementary School, 2525 Palm Avenue, Highland, CA.
- November 8, 2001, 6:00–9:00 pm

Garner Valley Commons, 61600 Devil's Ladder Road, Garner Valley, CA

Additional meetings may be scheduled and notices will be available through the local Forest website or Forest contact, the Forest Plan website, toll-free telephone number, or mailings. During the scoping period, the agency will seek information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations interested in or affected by the proposed action. This input will be used to prepare the Draft Environmental Impact Statement. The scoping process includes:

1. Determining the scope and the potential significant issues to be analyzed in depth in the environmental impact statement.

2. Identifying and eliminating from detailed study the issues which are not significant or which have been covered by prior environmental review, narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

3. Exploring alternatives that address one or more significant issues while meeting the purpose and need for this proposal.

4. Verifying and updating scenery management data for use in the revision process.

*Related Environment Analyses:* Additional public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement include: the Oil and Gas EIS on the Los Padres National Forest, the joint Bureau of Land Management and Forest Service Santa Rosa/San Jacinto National Monument Management Plan EIS, the Bureau of Land Management Off-shore Monument EIS, and the National Oceanic and Atmospheric Agency Monteray Bay Marine Sanctuary EIS.

The Department of the Interior Fish and Wildlife Service, and the Department of Commerce National Marine Fisheries Service, will be invited to participate as cooperating agencies to evaluate potential impacts on threatened and endangered species habitat.

*Alternatives:* A range of alternatives for revising these four Forest Plans and providing programmatic direction over the next 10–15 years will be developed in response to significant issues identified during scoping. One of these alternatives is the purposed action, which is the current Forest Plan direction as modified by the recent consultations with the Fish and Wildlife Service and National Marine Fisheries Service and additional direction as recommended by an internal agency review and early public input regarding changes that are needed in the existing Forest Plans. The additional direction specifically addresses shooting, recreation residences, land adjustment plans, communication sites, and fire management. The details of this proposal can be viewed on the website listed above.

*Release and Review of the EIS;* The Forest Service anticipates filing a Draft EIS with the Environment Protection Agency (EPA) and making that DEIS available for comment in fall 2002. At that time, EPA will publish a notice of availability (NOA) for the DEIS in the **Federal Register.** The comment period on the DEIS will be 90 days from the date the EPA publishes the NOA in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions; *Vermont Yankee Nuclear Power Corp.* v. *NRDC.* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the DEIS stage but are not raised until after completion of the Final EIS may be waived or dismissed by the courts; *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate throughout the process, so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the proposed action. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the DEIS, the agency will analyze, consider, and respond to comments in preparing the Final EIS. The FEIS is anticipated to be completed in the fall of 2003. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making decisions regarding these revisions. The responsible official will document the decision for each of the four Forests and reasons for each decision in one Record of Decision.

The decision will be subject to appeal in accordance with 36 CFR 217.

Dated: September 14, 2001.

**Bernard Weingardt,**

*Deputy Regional Forester.*

[FR Doc. 01–23731 Filed 9–21–01; 8:45 am]

BILLING CODE 3410–11–M

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## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Municipal Interest Rates for the Fourth Quarter of 2001

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of municipal interest rates on advances from insured electric loans for the fourth quarter of 2001.

**SUMMARY:** The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the fourth calendar quarter of 2001.

**DATES:** These interest rates are effective for interest rate terms that commence during the period beginning October 1, 2001, and ending December 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** Gail P. Salgado, Management Analyst, Office of the Assistant Administrator, Electric Program, Rural Utilities Service, U.S. Department of Agriculture, Room 4024–S, Stop 1560, 1400 Independence Avenue, SW, Washington, DC 20250–1560. Telephone: 202–205–3660. FAX: 202–690–0717. E-mail: *GSalgado@rus.usda.gov.*

**SUPPLEMENTARY INFORMATION:** The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the fourth calendar quarter of 2001 for municipal rate electric loans. RUS regulations at § 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to § 1714.5, the interest rates on these advances are based on indexes published in the ''Bond Buyer'' for the four weeks prior to the fourth Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or

longer is the average of the 20 year rates published in the Bond Buyer in the four weeks specified in § 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of ''Municipal Market Data—General Obligation Yields'' or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Data includes only rates for securities maturing in 2001 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based on the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one eighth of one percent (0.125 percent) as required under § 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.000 percent.

In accordance with § 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the fourth calendar quarter of 2001.

| Interest rate term ends in (year) | RUS rate (0.000 percent) |
|---|---|
| 2022 or later | 5.000 |
| 2021 | 5.000 |
| 2020 | 4.875 |
| 2019 | 4.875 |
| 2018 | 4.750 |
| 2017 | 4.750 |
| 2016 | 4.750 |
| 2015 | 4.625 |
| 2014 | 4.500 |
| 2013 | 4.375 |
| 2012 | 4.250 |
| 2011 | 4.125 |
| 2010 | 4.000 |
| 2009 | 3.875 |
| 2008 | 3.750 |
| 2007 | 3.625 |
| 2006 | 3.500 |
| 2005 | 3.250 |
| 2004 | 3.000 |
| 2003 | 2.750 |
| 2002 | 2.500 |

Dated: August 18, 2001.

**Blaine D. Stockton,**

*Acting Administrator, Rural Utilities Service.*

[FR Doc. 01–23770 Filed 9–21–01; 8:45 am]

BILLING CODE 3410–15–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 091401A]**

## Western 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 78th meeting of the Western Pacific Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will convene October 9 through 11, 2001, in Honolulu, Hawaii.

**DATES:** The SSC meeting will be held from 9 a.m. to 5 p.m. on October 9 and from 8:30 a.m. to 5 p.m. on October 10-11, 2001.

**ADDRESSES:** The 78th SSC meeting will be held at the Council office conference room, 1164 Bishop St., Suite 1400, Honolulu, Hawaii; telephone: 808–522–8220.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director; telephone 808–522–8220.

**SUPPLEMENTARY INFORMATION:** The SSC will discuss and may make recommendations to the Council on the agenda items below. The order in which agenda items will be addressed can change.

### Agenda A (1st hearing)

*Tuesday, October 9, 2001, 9 a.m.*

A. Crustaceans fisheries - Northwestern Hawaiian Islands (NWHI) lobsters

1. NMFS tagging research 2000 and 2001
2. 1999 Annual Report
3. Public comment (Hearing if Draft Environmental Impact Statement is out for comment)

B. Bottomfish fisheries

1. NWHI framework action: removal of NWHI landing requirements
2. Marine Protected Area (MPA) effects on calculating Spawning potential ratios (SPR), catch per unit effort (CPUE), etc.
3. Status of Hawaiian monk seal biological opinion and litigation
4. Status of bottomfish observer program and data collection
5. Status of Digital Video Observer Pilot project
6. Public comment (Hearing if Draft Environmental Impact Statement is out for comment)

C. Hawaiian monk seals

1. Quarterly report on activities of the Marine Mammal Research Program
2. Report on NWHI shark activities
a. Great white shark
b. Culling

*Wednesday, October 10, 2001, 8:30 a.m.*

D. Pelagic fisheries

1. 2nd quarter 2001 Hawaii and American Samoa longline reports
2. Annual Report
3. Distribution and abundance of billfish larvae off Kona
4. American Samoa
a. Longline fishery expansion in 2001 and management needs (limited entry program)
b. Pilot Observer program
5. Turtle conservation and management
a. Litigation
b. Status of turtle recovery plans
c. Workshop
d. Turtle research (progress since May 2001)
e. Tagging
1. Validating tag performance
2. Other (modeling, population assessments, etc.)
3. Status of Section 10 fishing experiment
4. FMP regulatory amendment for turtle mitigation
5. Seabird conservation and management
a. Litigation
b. U.S. Fish and Wildlife Service STAL Handling Guidelines
c. 2nd International Fishers Forum
d. Underwater setting chute deployment in Hawaii longline fishery
e. Exemption of basket gear from mitigation regulations
f. Marine Mammal Protection Act List Of Fisheries
6. Impacts of closure of Suisan auction in Hilo
7. Report on the 2001 Protected Species Workshops
8. International meetings (14th Standing Committee on Tuna and Billfish, 3rd Billfish Symposium)

F. Precious Corals Fisheries

1. Precious coral framework action
2. Public hearing on framework action

The Council proposes to restructure the management regime for the exploratory area to be based on current knowledge of the resource and industry practices. This will permit increased landings as well as reduce pressure on the known beds. The proposed measure removes the 1,000 kg annual quota, and incorporates site-specific restrictions which will allow harvest of a sustainable percentage based on the size

of the resource in a given area. Compliance will be monitored through mandatory harvesting videotapes.

*Thursday, October 11, 2001, 8:30 a.m.*

G. Ecosystem and Habitat

1. NOAA habitat mapping initiatives
2. Proposed invasive species mitigation measures
3. Council MPAs policy development

H. Summary of recommendations to Council

I. Schedule for 2002 SSC meetings

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to the meeting date.

Dated: September 17, 2001.

**Bruce Morehead,**

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

[FR Doc. 01–23797 Filed 9–21–01; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### Technology Administration

### National Medal of Technology Nomination Evaluation Committee; Notice of Determination for Closure of Meeting

The National Medal of Technology Nomination Evaluation Committee has scheduled a meeting for November 7, 2001.

The Committee was established to assist the Department in executing its responsibilities under 15 U.S.C. 3711. Under this provision, the Secretary is responsible for recommending to the President prospective recipients of the National Medal of Technology. The committee's recommendations are made after reviewing all nominations received in response to a public solicitation. The Committee is chartered to have twelve members.

*Time and Place:* The meeting will begin at 10 a.m. and end at 4 p.m. on November 7, 2001. The meeting will be held in Room 4813 at the U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230. For further information contact: Mildred S. Porter, Director National Medal of Technology, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Herbert C. Hoover Building, Room 4226, Washington, DC 20230, Phone: (202–482–1424).

If a member of the public would like to submit written comments concerning the committee's affairs at any time before and after the meeting, written comments should be addressed to the Director of the National Medal of Technology as indicated above.

**SUPPLEMENTARY INFORMATION:** The meeting will be closed to discuss the relative merits of persons and companies nominated for the Medal. Public disclosure of this information would be likely to significantly frustrate implementation of the National Medal of Technology program because premature publicity about candidates under consideration for the Medal, who may or may not ultimately receive the award, would be likely to discourage nominations for the Medal.

Accordingly, I find and determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended, that the November 7, 2001, meeting may be closed to the public in accordance with Section 552b (c)(9)(B) of Title 5, United States Code because revealing information about Medal candidates would be likely to significantly frustrate implementation of a proposed agency action.

Due to closure of the meeting, copies of the minutes of the meeting will not be available, however a copy of the Notice of determination will be available for public inspection and copying in the office of Mildred Porter, Director, National Medal of Technology, 1401 Constitution Avenue, NW., Herbert Hoover Building, Room 4226, Washington, DC 20230, (Phone: 202–482–1424).

Dated: August 10, 2001.

**Bruce P. Mehlman,**

*Assistant Secretary for Technology Policy.*

[FR Doc. 01–23743 Filed 9–21–01; 8:45 am]

**BILLING CODE 3510–18–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (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 collection and its expected costs and burden; it includes the actual data collection instruments [if any].

**DATES:** Comments must be submitted on or before October 24, 2001.

**FOR FURTHER INFORMATION OR A COPY CONTACT:** Barbara W. Black at CFTC, (202) 418–5130; FAX: (202) 418–5541; email: *bblack@cftc.gov* and refer to OMB Control No. 3038–0022.

**SUPPLEMENTARY INFORMATION**

*Title:* Rules Pertaining to Contract Markets and Their Members (OMB Control No. 3038–0022). This is a request for extension of a currently approved information collection.

*Abstract:* Section 5c(c) of the Commodity Exchange Act, 7 U.S.C. 7a–2(c), establishes procedures for registered entities (designated contract markets, registered derivatives transaction execution facilities and registered derivatives clearing organizations) to implement new rules and rule amendments by either seeking prior approval or (for most rules) certifying to the Commission that such rules or rule amendments do not violate the Act or Commission regulations. Rules 40.4, 40.5 and 40.6 implement these statutory provisions.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 15, 2001 (66 FR 42846).

*Burden statement:* The respondent burden for this collection is estimated to average 2.52 hours per response. These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* 12,284.

*Estimated number of responses:* 305,371.

*Estimated total annual burden on respondents:* 770,506 hours.

*Frequency of collection:* On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0022 in any correspondence.

Barbara W. Black, Office of the Executive Director, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: September 18, 2001.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 01–23729 Filed 9–21–01; 8:45 am]

BILLING CODE 6551–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Friday, October 5, 2001.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 01–23902 Filed 9–20–01; 12:05 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Friday, October 12, 2001.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 01–23903 Filed 9–20–01; 12:05 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Friday, October 19, 2001.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 01–23904 Filed 9–20–01; 12:05 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Friday, October 26, 2001.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 01–23905 Filed 9–20–01; 12:05 pm]

BILLING CODE 6351–01–M

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Record of Decision for Construction and Operation of a Marine Corps Heritage Center at Marine Corps Base Quantico, VA

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of record of decision.

**SUMMARY:** The Department of the Navy, pursuant to section 102(2)(c) of the National Environmental Policy Act and the regulations (40 CFR parts 1500–1508), announces its decision to construct and operate the Marine Corps Heritage Center on the Locust Shade Park site.

**ADDRESSES:** A copy of the Environmental Impact Statement (EIS) addressing this decision may be obtained from Engineering Field Activity Chesapeake, Naval Facilities Engineering Command, 1314 Harwood Street, SE, Building 212, Washington Navy Yard, DC 20374–5018.

**FOR FURTHER INFORMATION CONTACT:** Mr. Hank Reik, telephone (202) 685–3064.

**SUPPLEMENTARY INFORMATION:** The Marine Corps History and Museum Division is responsible for the collection, preservation and presentation of information and material used in the study and development of military doctrine, tactics, weapons and equipment for the Marine Corps. Most of the Division's collections are located within various facilities at Marine Corps Base (MCB) Quantico (including the Marine Corps Air Ground Museum) while their administrative offices are located in the Washington Navy Yard, Washington, DC. The Division has acquired existing spaces over the years to house its collections, which has resulted in collections being stored in 11 different sites. To enhance protection of its historical collections, improve access to historical information, and foster public education and appreciation through exhibits, displays, outdoor ceremonies and demonstrations, the Marine Corps intends to promote the development of a Marine Corps Heritage Center at MCB Quantico.

The Heritage Center would consist of various buildings, outside exhibits, a parade field, demonstration areas and associated infrastructure on a 135-acre site. Less than half of the site would be developed, the rest would remain in its natural state. Buildings would be used for administrative offices, curatorial spaces, exhibits, public presentation facilities, record storage and restoration workshops. Development of the complex would be funded primarily through private donations. Construction is expected to occur in phases beginning in 2003.

The Marine Corps prepared an EIS to evaluate the anticipated effects of developing a Marine Corps Heritage Center and selecting a site for the facility. A Final EIS was distributed to the public on June 15, 2001. In response, five comment letters were received. All were supportive of the

project at the preferred site. The Virginia Department of Environmental Quality requested a separate Consistency Determination be forwarded per regulations governing compliance with the Coastal Zone Management Act. A consistency determination was forwarded in response to the request. The Virginia Department of Environmental Quality concurred telephonically in this determination.

Alternatives evaluated in the EIS included three on-base sites, one off-base site, and no action. Siting criteria for the project included proximity to MCB Quantico to facilitate the relationship with on-base education programs and support functions, ready access to Interstate 95, and suitable size (about 100 acres) and setting appropriate for development of the complex. The preferred alternative, Locust Shade Park, is off-base. Prince William County will convey the property to the Department of the Navy for constructing and operating the Marine Corps Heritage Center.

The preferred alternative, Locust Shade Park, is also the environmentally preferred alternative. An erosion and sediment control plan and storm water management plan would be developed and implemented for the facility to control movement of soils and minimize potential effects to wetlands and water quality. The project will also comply, to the maximum extent practicable, with requirements identified in the Virginia Coastal Resources Management Program. A small wetland that exists near the northwest corner of the site will be avoided in siting project related components. No federally protected species occur on the site. The site does not contain cultural resources listed or eligible for listing on the National Register of Historic Places. A small cemetery is located in the northeast corner of the site. This cemetery will be avoided during construction activities. Construction and operation of the complex will result in an increase of air emissions; however, these emissions are below de minimus levels as identified in the Conformity regulations of the Clean Air Act. Traffic associated with the operation of the Heritage Center would be predominantly attributed to visitors and typically occur outside peak commuter periods. Although significant increases in traffic are projected to occur regardless of whether the Heritage Center is constructed, the addition of related vehicles from operation of the Heritage Center will not significantly add to these increases. All practicable means to avoid or minimize environmental harm from implementing construction and operation of the Heritage Center have been considered.

After considering the requirements of the Marine Corps, the potential environmental impacts of this action, social and economic concerns, and all comments received during the EIS process, I have determined that the Locust Shade Park site best meets the requirements of the proposed action and select that site as the location for the Marine Corps Heritage Center.

Dated: September 18, 2001.

**Duncan Holaday,**

*Deputy Assistant Secretary of the Navy (Installations and Facilities).*

[FR Doc. 01–23794 Filed 9–21–01; 8:45 am]

BILLING CODE 3810–FF–P

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before October 24, 2001.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 18, 2001.

**John Tressler,**

*Leader, Regulatory Information Management, Office of the Chief Information Officer.*

### Office of Special Education and Rehabilitative Services

*Type of Review:* New.

*Title:* Pre-Elementary Education Longitudinal Study (PEELS).

*Frequency:* Varies.

*Affected Public:* Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

Responses: 16,411.

Burden Hours: 7,652.

*Abstract:* PEELS will provide the first national picture of experiences and outcomes of three to five year old children in early childhood special education. The study will inform special education policy development and support Government Performance and Results Act (GPRA) measurement and Individuals with Disabilities Education Act (IDEA) reauthorization with data from parents, service providers, and teachers.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to CAREY at (202) 708–6287. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23727 Filed 9–21–01; 8:45 am]

BILLING CODE 4001–01–P

## DEPARTMENT OF ENERGY

### Environmental Management Advisory Board

**AGENCY:** Department of Energy.

**ACTION:** Notice of postponement of committee meeting.

**SUMMARY:** This notice announces the postponement of the Alternative Technologies to Incineration Committee (ATIC).

**DATES:** Meeting date: Tuesday, September 25, 2001—8:30 a.m.–5 p.m.; Wednesday, September 26, 2001—8:30 a.m.–4 p.m.

**ADDRESSES:** Meeting location: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW. (Room 1E–245), Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** James T. Melillo, Executive Director of the Environmental Management Advisory Board (EM–10), 1000 Independence Avenue SW. (Room 5B–171), Washington, DC 20585; telephone (202) 586–4400; e-mail *james.melillo@em.doe.gov.*

Issued at Washington, DC, on September 19, 2001.

**Belinda Hood,**

*Acting Deputy Advisory Committee Management Officer.*

[FR Doc. 01–23792 Filed 9–21–01; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Certification of the Radiological Condition of the New Brunswick Site in New Brunswick, New Jersey, 1996

**AGENCY:** Office of Environmental Management, Oak Ridge Operations (ORO), Department of Energy (DOE).

**ACTION:** Notice of certification.

**SUMMARY:** The Department of Energy (DOE) has completed remedial actions to decontaminate the New Brunswick site (former New Brunswick Laboratory) in New Brunswick, New Jersey. The property formerly was found to contain quantities of residual radioactive material associated with laboratory operations of the United States Atomic Energy Commission. Based on the analysis of all data collected, DOE has concluded that any residual radiological contamination remaining onsite at the conclusion of DOE's remedial action falls within radiological guidelines in effect at the conclusion of such remedial action.

**ADDRESSES:** The certification docket is available at the following locations:

U.S. Department of Energy, Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Public Document Room, Oak Ridge Operations Office, 200 Administration Road, Oak Ridge, Tennessee 27830

New Brunswick Free Public Library, 60 Livingston Avenue, New Brunswick, New Jersey 08901

**FOR FURTHER INFORMATION CONTACT:** Robert G. Atkin, Project Engineer, Office of Assistant Manager of Environmental Management, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, Tennessee 37830, Phone: (865) 576–1826, Fax: (865) 574–4724.

**SUPPLEMENTARY INFORMATION:** The DOE, ORO Office of Environmental Management, has conducted remedial action at the New Brunswick site in New Brunswick, New Jersey, under the Formerly Utilized Sites Remedial Action Program (FUSRAP). The objective of the program is to identify and remediate or otherwise control sites where residual radioactive contamination remains from activities carried out under contract to the Manhattan Engineer District/Atomic Energy Commission during the early years of the nation's atomic energy program.

In October 1997, the U.S. Congress assigned responsibility for management of the program to the U.S. Army Corps of Engineers (USACE). Completion of the certification process was delayed pending preparation of a Memorandum of Understanding between DOE and USACE with regard to completed, remediated sites such as the New Brunswick property. The Memorandum of Understanding between the U.S. DOE and the U.S. Army Corps of Engineers Regarding Program Administration and Execution of the Formerly Utilized Sites Remedial Action Program was signed by the parties in March 1999. Funding to proceed with the completion of DOE closure documentation for several FUSRAP sites, including the New Brunswick site, was obtained from USACE in late 2000.

From 1948 to 1977, the New Brunswick site was used as a general nuclear chemistry laboratory for work related to government reactor and weapons programs. Site structures included a main laboratory building, plutonium laboratory complex containing a hot cell for handling radioactive materials, and nine other support buildings.

During 29 years of operation, the New Brunswick site provided a variety of services using nuclear materials such as thorium and uranium ores, high-purity plutonium, americium, and enriched uranium. In 1960, soil contaminated with residues from pitchblende (a radium-bearing ore) was moved to the site from the Middlesex Municipal Landfill, located in the Borough of Middlesex. The material was mixed with clean soil and used to fill an unused rail spur that entered the eastern side of the property. In 1977, the New Brunswick facility was closed, and laboratory operations and personnel were relocated. In 1990, NBS was formally placed in FUSRAP.

The site was partially remediated in two phases during the late 2970s and early 1980s. Phase 1, completed in 1978, consisted of removing contaminated accessible plumbing, equipment, and portions of floors, walls, and ceilings. Phase 2, conducted from 1981 through 1983, included removal of all aboveground structures, including contaminated concrete foundations and onsite drain lines and radioactively contaminated soil on the front two-thirds of the property. The waste materials were disposed of at the Nevada Test Site.

After Phases 1 and 2 were completed, verification surveys and sampling identified localized areas that were contaminated with uranium, radium, and thorium. Limited sampling and surveying in 1992 indicated that radioactively contaminated soils were present only within the filled railroad spur and a localized spot midway along the southern fenceline. The last phase of remediation, the excavation of the remaining contaminated soil, was completed in 1996.

Post-remedial action surreys conducted in 1996 have demonstrated, and DOE has certified, that the subject property is in compliance with the Department's radiological decontamination criteria and standards in effect at the conclusion of the remedial action. These standards are established to protect members of the general public and occupants of the site and to ensure that future use of the site will result in no radiological exposure above applicable guidelines. These findings are supported by the Department's Certification Docket for the Remedial Action Performed at the New Brunswick Site, in New Brunswick, New Jersey. DOE makes no representation regarding the condition of the site as a result of activities conducted subsequent to DOE's post-remedial action surveys.

The certification docket will be available for review between 9:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays), in the DOE Public Reading Room located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. Copies of the certification docket also will be available in the DOE Public Document Room, U.S. Department of Energy, Oak Ridge Operations Office, 200 Administration Road, Oak Ridge, Tennessee, and the New Brunswick Free Public Library, 60 Livingston Avenue, New Brunswick, New Jersey.

DOE, through the Oak Ridge Operations Office of Environmental Management, Oak Ridge Reservation Remediation Management Group, has issued the following statement:

**Statement of Certification: New Brunswick Site in New Brunswick, New Jersey**

The U.S. Department of Energy (DOE) Oak Ridge Operations (ORO) Office of Environmental Management, Oak Ridge Reservation (ORR) Remediation Management Group, has reviewed and analyzed the radiological data obtained following remedial action at the property identified as Block 598, Lot 6, and Sheet 80 of the Tax Map of the City of New Brunswick, Middlesex County, New Jersey. Based on analysis of all data collected, including post-remedial action surveys, DOE certifies that any residual contamination remaining onsite at the time remedial actions were completed falls within the guidelines, in effect at the conclusion of remedial action, for use of the site without radiological restrictions. This certification of compliance provides assurance that reasonably foreseeable future use of the site will result in no radiological exposure above radiological guidelines, in effect at the conclusion of the remedial action, for protecting members of the general public as well as occupants of the site.

Property owned by: United States of America, 986 Jersey Avenue, New Brunswick, New Jersey 08903.

Issued in Oak Ridge, Tennessee on September 6, 2001.

**William M. Seay,**

*Group Leader, ORR Remediation Management Group.*

[FR Doc. 01–23740 Filed 9–21–01; 8:45 am]

BILLING CODE 6450–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. GT01–32–000]**

## Kansas Pipeline Company Enbridge Pipelines (KPC); Notice of Proposed Changes in FERC Gas Tariff

September 18, 2001.

Take notice that on September 12, 2001, Kansas Pipeline Company (Kansas Pipeline) and Enbridge Pipelines (KPC) tendered for filing as part of its FERC Gas Tariff, First 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, attached to the filing.

Kansas Pipeline and KPC 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. 01–23812 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL01–50–000]**

## KeySpan-Ravenswood, Inc., Complainant v. New York Independent System Operator, Inc., Respondent; Notice of Amendment to Complaint

September 18, 2001.

Take notice that on September 7, 2001, KeySpan-Ravenswood, Inc., tendered for filing an amendment to its March 8, 2001 complaint to adopt the netting of station power in the wholesale power market administered by the New York Independent System Operator.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before September 25, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before September 25, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–23808 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL01–113–000]**

### Mid-Tex G&T Electric Cooperative, Inc., Big Country Electric Cooperative, Inc., Coleman County Electric Cooperative, Inc., Concho Valley Electric Cooperative, Inc., Golden Spread Electric Cooperative, Inc., Kimble Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc., Southwest Texas Electric Cooperative, Inc., and Taylor Electric Cooperative, Inc. Complainants, v. West Texas Utilities Company Respondent; Notice of Complaint

September 18, 2001.

Take notice that on September 14, 2001, Mid-Tex G&T Electric Cooperative, Inc. (Mid-Tex) and its member cooperatives filed a Complaint against West Texas Utilities Company (WTU) pursuant to Section 206 of the Federal Power Act. Mid-Tex and its member cooperatives claim that the rates charged under the WTU Wholesale Power Choice Tariff, FERC Electric Tariff Second Revised Volume No. 9 are unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

WTU has been served a copy of the Complaint.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before October 16, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before October 16, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–23811 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–342–002]**

### MIGC, Inc.; Notice of Compliance Filing

September 18, 2001.

Take notice that on September 12, 2001, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following pro forma tariff sheets, to become effective upon further order of the Commission.

First Revised Sheet No. 30
First Revised Sheet No. 31
First Revised Sheet No. 32
Third Revised Sheet No. 33
Original Sheet No. 33A
Original Sheet No. 52B
Fourth Revised Sheet No. 60
Original Sheet No. 60A
Third Revised Sheet No. 61
Third Revised Sheet No. 69
Third Revised Sheet No. 70
Fourth Revised Sheet No. 85
First Revised Sheet No. 118
First Revised Sheet No. 119

MIGC asserts that the purpose of this filing is to comply with the Commission's order issued July 11, 2001, in Docket No. RP00–342–000, to file actual tariff sheets reflecting certain revisions to its June 15, 2000 filing in compliance with Order No. 637.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with the 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. 01–23815 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP01–600–000]**

### Canyon Creek Compression Company; Notice of Tariff Filing and Annual Charge Adjustment

September 18, 2001.

Take notice that on September 12, 2001, Canyon Creek Compression Company (Canyon) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Seventh Revised Sheet No. 6 to be effective October 1, 2001.

Canyon states that the purpose of this filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Canyon to recover from its customers annual charges assessed to Canyon by the Federal Energy Regulatory Commission (Commission) pursuant to Part 382 of the Commission's Regulations. Canyon states that its new ACA factor will be $0.0021 per Dth.

Canyon 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, 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 25, 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. 01–23816 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP01–601–000]**

## Natural Gas Pipeline Company of America; Notice of Tariff Filing and Annual Charge Adjustment

September 18, 2001.

Take notice that on September 11, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Tenth Revised Sheet No. 26, to be effective October 1, 2001.

Natural states that the purpose of this filing is to implement the Annual Charges Adjustment (ACA) surcharge necessary for Natural to recover from its customers annual charges assessed to it by the Federal Energy Regulatory Commission (Commission) pursuant to Part 382 of the Commission's Regulations. Natural states that its new ACA factor will be $0.0021 per Dth.

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 on or before September 25, 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. 01–23817 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 2145–041 Washington]**

## Public Utility District No. 1 of Chelan County; Notice of Availability of Environmental Assessment

September 18, 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 47910), the Office of Energy Projects has reviewed Public Utility District No.1 of Chelan County's application for license amendment to temporarily increase, by one foot, the normal operating level of the reservoir at the Rocky Reach Hydroelectric Project, located on the Columbia River in Chelan and Douglas Counties, Washington, and has prepared an Environmental Assessment (EA). The project occupies lands managed by the Bureau of Land Management and the U.S. Forest Service.

The EA contains the staff's analysis of the potential environmental impacts of the proposed amendment and concludes that approval of the proposed amendment with staff's modifications would not constitute a major federal action that would significantly affect the quality of the human environment.

The EA is attached to a Commission order issued on September 13, 2001 for the above application. Copies of the EA are available for review at the Commission's Public Reference Room, located at 888 First Street, NE., 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. The EA may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

For further information, contact Vince Yearick at (202) 219–3073.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–23813 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Motion for Declaratory Order, and Soliciting Comments, Motions to Intervene, and Protests

September 18, 2001.

a. *Type of Filing:* Petition for Declaratory Order to find that certain transmission lines are no longer jurisdictional and no longer require licensing

b. *Project No:* 2150–022.

c. *Date Filed:* June 1, 2001.

d. *Applicant:* Puget Sound Energy, Inc.

e. *Name of Project:* Baker River Project.

f. *Location:* The Project is located on the Baker River in Skagit and Whatcom Counties, Washington.

g. *Filed Pursuant to:* Federal Energy Regulatory Commission Regulation, 18 CFR 385.207.

h. *Applicant Contact:* Pamela W. Krueger, Perkins Coie, LLP, One Bellevue Center, Suite 1800, 411 108th Ave. Northeast, Bellevue, WA 98004–5584.

i. *FERC Contact:* William Guey-Lee, (202) 219–2808, or william.gueylee@ferc.fed.us.

j. *Deadline for filing comments, motions to intervene or protests:* (October 19, 2001)

All documents (original and eight copies) should be filed with: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears 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. *Description of Project:* The applicant proposes that, upon license expiration, the following exhibits be revised to delete certain primary transmission lines currently part of the project works: Exhibit J–1 (2150–50) revised; Exhibit J–2 (2150–7) delete;

Exhibit J&K (2150–64) delete; Exhibit Supplementary K–1 (2150–65) revised; Exhibit Supp. K–1A (2150–66) revised; Exhibit Supp. K–2 (2150–9) revised; Exhibit Supp. K–3 (2150–10) revised; Exhibit Supp. K–4 (2150–11) revised; Exhibit Supp. K–5 (2150–49); and Exhibit Supp. K–6 through K–14 (2150–30 through 38) delete. The four transmission lines affected by this action are (1) the two 22.6-mile lines connecting Sedro-Wooley transmission station with Baker River switching station, (2) the 8.5-mile line connecting Shannon switching station with Baker River switching station, and (3) the 0.2-mile connecting Shannon switching station with Upper Baker generating station.

l. *Location of the Filing:* A copy of the filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 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 202–208–222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–23814 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RT01–2–002, et al.]**

## PJM Interconnection, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

September 17, 2001.

Take notice that the following filings have been made with the Commission:

### 1. PJM Interconnection, L.L.C.

[Docket No. RT01–2–002]

Take notice that on September 10, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing with the Federal Energy Regulatory Commission (Commission), proposed amendments to the PJM Open Access Transmission Tariff, to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., and to the Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area. PJM states that the proposed amendments are submitted to comply with the Commission's order in this proceeding dated July 12, 2001.

Copies of this filing have been served on all parties, as well as on all PJM Members and the state electric regulatory commissions in the PJM control area.

*Comment date:* October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 2. Maclaren Energy, Inc.

[Docket No. ER01–2104–002]

Take notice that on September 12, 2001, Maclaren Energy, Inc. submitted for filing with the Federal Energy Regulatory Commission (Commission) revised Rate Schedule FERC No. 1, under its FERC Electric Tariff Volume No.1 in compliance with the Commission's Order of August 27, 2001.

*Comment date:* October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 3. Cinergy Services, Inc.

[Docket No. ER01–2910–001]

Take notice that on September 4, 2001, Cinergy Services, Inc. tendered for filing with the Federal Energy Regulatory Commission, (Commission) a Notice of Name Change from First Energy Trading & Marketing Inc. to First Energy Services Corp.

Cinergy requests that the Commission make the requested tariff changes effective as of the date of the Notice of Name Change, January 1, 2001.

*Comment date:* September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 4. Virginia Electric and Power Company

[Docket No. ER01–2989–001]

Take notice that on September 12, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing two revised pages to the Cost Support for the Monthly Facility Charge attached to the executed Generator Interconnection and Operating Agreement (Interconnection Agreement) between Dominion Virginia Power and Industrial Power Generating Corporation (Ingenco) filed in the above referenced docket on August 31, 2001. The revised pages are being submitted to correct a clerical error.

Dominion Virginia Power respectfully requests that the Commission accept this filing to allow the Interconnection Agreement to become effective as of August 24, 2001, the date requested in its August 31, 2001 filing.

Copies are being served upon Industrial Power Generating Corporation and the Virginia State Corporation Commission.

*Comment date:* October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 5. American Electric Power Service Corporation

[Docket No. ER01–3033–000]

Take notice that on September 11, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission (PTP) Service Agreements for Split Rock Energy LLC and a Firm PTP Service Agreement for PSEG Energy Resources & Trade LLC. AEPSC also filed Network

Integration Transmission Service (NTS) Agreements for energy suppliers in retail supplier choice programs, *i.e.,* AES NewEnergy, Inc. and MidAmerican Energy Company (MECR), and NTS Agreement Supplements for Wabash Valley Power Association, Inc. (WVPA), and for American Electric Power Service Corporation—Wholesale Power Merchant Organization (AEPM). All of these agreements are 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 Second Revised Volume No. 6.

AEPSC requests waiver of notice to permit the NTS Service Agreement Supplement for WVPA to be made effective for service billed on and after May 16, 2001, and the NTS Service Agreement Supplement for AEPM to be made effective for service billed on and after August 1, 2001. An effective date of September 1, 2001 is requested for all other agreements filed herewith.

AEPSC also requests termination on August 8, 2001, of firm and non-firm service agreements executed April 1, 1998, by El Paso Merchant Energy, L.P., formerly Engage Energy US, L.P., under AEP Companies' FERC Electric Tariff Original Volume No. 4.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

*Comment date:* October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**6. Kentucky Utilities Company**

[Docket No. ER01–3040–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between KU and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for a contract modification to add an area of load entitled North Madison load area on KU's Fawkes-Higby Mill 69 kV transmission line. The amendment requires EKPC to reimburse KU for all costs associated with the construction of the tap structure. This amendment is Number 13.

*Comment date:* October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**7. Kentucky Utilities Company**

[Docket No. ER01–3041–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between (KU) and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for a contract modification to add an area of load entitled North Floyd load area on KU's Somerset North-Lancaster 69 kV transmission line. The amendment required EKPC to reimburse KU for all costs associated with the construction of the tap structure. This amendment is Number 17.

*Comment date:* October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**8. Kentucky Utilities Company**

[Docket No. ER01–3042–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between (KU) and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for an addition of a free flowing interconnection point at the EKPC Baker Lane substation. The interconnection will be on KU's Brown North-Higby Mill 138/69 69 kV transmission line. The amendment requires EKPC to reimburse KU for all costs associated with the construction of the tap structure. This amendment is Number 14.

*Comment date:* October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**9. Kentucky Utilities Company**

[Docket No. ER01–3043–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between (KU) and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for the right of each party, in an emergency, to operate and repair the other party's facilities that affect load areas. It also provides for the right to inspect the other party's facilities that affect service to load areas. This amendment is Number 16.

*Comment date:* October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**10. Kentucky Utilities Company**

[Docket No. ER01–3044–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between (KU) and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for an addition of a free flowing interconnection point at the EKPC Lake Reba Tap substation. The interconnection will be on KU's Lake Reba Tap substation. The amendment requires EKPC to reimburse KU for all costs associated with the construction of the tap structure. This amendment is Number 15.

*Comment date:* October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**11. Mid-Continent Area Power Pool**

[Docket No. ER01–3045–000]

Take notice that on September 12, 2001, the Mid-Continent Area Power Pool (MAPP), filed with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d, and part 35 of the Commission's regulations, 18 CFR part 35, the Mid-Continent Area Power Pool Power and Energy Market Rate Tariff (Exhibit E to MAPP's FERC Electric Tariff, Original Volume No. 2). The Power and Energy Market Rate Tariff, modeled largely on the Master Purchase and Sale Agreement developed by the Edison Electric Institute and the National Energy Marketers Association, permits members of MAPP with market-based rate authority to engage in sales for resale of electric energy at negotiated rates.

*Comment date:* October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

**12. Entergy Services, Inc.**

[Docket No. ER01–3046–000]

Take notice that on September 12, 2001, Entergy Services, Inc., on behalf of 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) a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and

Williams Energy Marketing & Trading Company.

*Comment date:* October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

**13. California Independent System Operator Corporation**

[Docket No. ER01–3047–000]

Take notice that on September 12, 2001, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) the ISO's Summer 2001 Demand Relief Program.

The ISO requests that the program be made effective as of June 1, 2001, the beginning date for the Summer 2001 Demand Relief Program. The ISO also submitted, for informational purposes, Summer 2001 Demand Relief Agreements and revisions to some of those Demand Relief Agreements.

The ISO states that this filing has been served upon the California Public Utilities Commission, the California Energy Commission, the California Electricity Oversight Board, all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff, and parties with which the ISO has agreed to Summer 2001 Demand Relief Agreements.

*Comment date:* October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

**14. Deseret Generation & Transmission Co-operative, Inc.**

[Docket No. ER01–3049–000]

Take notice that on September 12, 2001, Deseret Generation & Transmission Co-operative, Inc. submitted an informational filing, providing the exact amount paid as a 2000 Rate Rebate to each of its six member cooperatives under Service Agreement Nos. 1 through 6 of FERC Electric Tariff, Original Volume No. 1.

*Comment date:* October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

**15. PJM Interconnection, L.L.C.**

[Docket No. ER01–3050–000]

Take notice that on September 13, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing a request to amend the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) to authorize holding the election to fill the two seats on PJM's Board of Managers (PJM Board) for which an election is required at the meeting of the PJM Members Committee on August 30, 2001, rather than at PJM's 2001 Annual Meeting. PJM states that, after the Commission, by order dated April 11, 2001, in Docket No. ER01–1286–000, rejected a proposed amendment to the Operating Agreement that would have eliminated the requirement to involve an independent consultant in the process of placing before the members at the Annual Meeting a slate of candidates for seats available on the PJM Board in 2001, it was unable to hold the election for the available Board seats at the 2001 Annual Meeting on April 26, 2001. PJM further states that the PJM Members Committee unanimously approved the amendment proposed in this filing. PJM requests that its filing become effective on August 30, 2001.

Copies of this filing were served upon all PJM members and all electric utility regulatory commissions in the PJM control area.

*Comment date:* October 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraph:**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–23810 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EC01–147–000, et al.]**

## Rock River I, LLC, et al.; Electric Rate and Corporate Regulation Filings

September 14 2001.

Take notice that the following filings have been made with the Commission:

**1. Rock River I, LLC and SeaWest WindPower, Inc. and Shell WindEnergy, Inc.**

[Docket No. EC01–147–000]

Take notice that on September 4, 2001, Rock River I, LLC (Rock River), SeaWest WindPower, Inc. (SeaWest), and ShellWindEnergy Inc. (Shell WindEnergy) filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Shell WindEnergy will acquire 100% of the membership interests in Rock River. Rock River is constructing a 50 MW wind power generating plant (''Project'') located in Carbon County, Wyoming, and estimated to begin producing test power for sale in September 2001. Rock River is currently wholly-owned by SeaWest. Pursuant to an acquisition agreement, the Transaction would be consummated after the Project commences commercial operation, which is expected to occur by October 15, 2001. The Transaction is expected to result in the disposition of Commission jurisdictional facilities consisting of Rock River's market-based rate tariff and minor interconnection facilities connecting the Project to the transmission facilities of PacifiCorp. Applicants have requested privileged treatment for the Acquisition Agreement between SeaWest and Shell WindEnergy.

A copy of this Application was served upon the Wyoming Public Service Commission and PacifiCorp.

*Comment date:* September 24 2001, in accordance with Standard Paragraph E at the end of this notice.

**2. RockGen Energy LLC, Broad River Energy LLC**

[Docket No. EC01–148–000]

Take notice that on September 5, 2001, RockGen Energy LLC and Broad River Energy LLC filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of the disposition of jurisdictional facilities in connection with the sale

and leveraged lease financing of the RockGen Energy Center, a 525–MW natural gas-fired, combined cycle generating facility in Christiana, Wisconsin and the Broad River Energy Center, a 850–MW natural gas-fired, combined cycle generating facility in Cherokee County, South Carolina. The jurisdictional facilities being transferred include transmission interconnection facilities at each of the foregoing facilities. The application includes a request for privileged treatment of information.

*Comment date:* September 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**3. PPL Generation, LLC, PPL Generation I Investments, LLC, PPL Brunner Island, LLC, PPL Martins Creek, LLC, PPL Holtwood, LLC, PPL Montour, LLC and PPL Southwest Generation Holdings, LLC**

[Docket No. EC01–149–000]

Take notice that on September 7, 2001, PPL Generation, LLC, PPL Generation Investments, LLC, PPL Brunner Island, LLC, PPL Martins Creek, LLC, PPL Holtwood, LLC, PPL Montour, LLC and PPL Southwest Generation Holdings, LLC (collectively Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for approval of an intra-corporate restructuring. Applicants assert that the restructuring will have no effect on jurisdictional facilities, rates or services and will be consistent with the public interest as it does not involve a change in control or operation of jurisdictional facilities.

*Comment date:* September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

**4. Allegheny Energy, Inc., Allegheny Energy Supply Hunlock Creek, LLC, Allegheny Energy Supply Conemaugh, LLC, Allegheny Generating Company, Green Valley Hydro, LLC, Allegheny Energy Global Markets, LLC, Monongahela Power Company, and Allegheny Energy Supply Company, LLC**

[Docket No. EC01–150–000]

Take notice that on September 10, 2001, Allegheny Energy Inc., Allegheny Energy Supply Hunlock Creek, LLC, Allegheny Energy Supply Conemaugh, LLC, Allegheny Generating Company, Green Valley Hydro, LLC, Allegheny Energy Global Markets, LLC, Monongahela Power Company, and Allegheny Energy Supply Company, LLC, filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization for the divestiture of AE Supply and other subsidiaries by Allegheny Energy and related transactions.

*Comment date:* October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

**5. Otter Tail Power Company.**

[Docket No. EC01–151–000]

Take notice that on September 10, 2001, Otter Tail Power Company, a division of Otter Tail Corporation, tendered for filing, an Application to Transfer Operational Control Over Transmission Facilities to the Midwest Independent Transmission System Operator. Inc. under Section 203 of the Federal Power Act.

*Comment date:* October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

**6. Reliant Energy Mid-Atlantic Power Holdings, LLC, Reliant Energy Seward, LLC, Reliant Energy Hunterstown, LLC**

[Docket No. EC01–152–000]

Take notice that on September 10, 2001, Reliant Energy Mid-Atlantic Power Holdings, LLC (REMA), Reliant Energy Seward, LLC (Reliant Energy Seward) and Reliant Energy Hunterstown, LLC (Reliant Energy Hunterstown) (collectively, the Applicants) submitted an application pursuant to Section 203 of the Federal Power Act, seeking authorization for a proposed transfer of jurisdictional facilities.

The Applicants state that REMA proposes to sell its existing 198–MW Seward generating facility and existing 71–MW Hunterstown generating facility to Reliant Energy Seward and Reliant Energy Hunterstown, respectively. The generating facilities include certain associated jurisdictional transmission facilities. The Applicants further state that the proposed transaction will have no effect on competition, rates or regulation, and is in the public interest. Applicants have requested privileged treatment under 18 CFR 388.112 for certain materials submitted in this Application.

*Comment date:* October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

**7. TECO EnergySource, Inc.**

[Docket No. ER96–1563–017]

Take notice that on September 10, 2001 TECO EnergySource, Inc. (TES) tendered for filing with the Federal Energy Regulatory Commission (Commission), an updated market power study in accordance with Commission policies governing parties authorized to sell power at market based rates.

*Comment date:* October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

**8. EWO Marketing, L.P.**

[Docket No. ER01–666–002]

Take notice that on September 7, 2001, EWO Marketing, L.P. tendered for filing with the Federal Energy Regulatory Commission (Commission), a notice of change in status in accordance with a commitment it made in its filing in Docket No. ER01–2456–000.

*Comment date:* September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

**9. Kentucky Utilities Company**

[Docket No. ER01–1288–002]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission), an amendment to its filing in Docket No. ER01–1288–000. In the original filing KU inadvertently omitted several pages of the interconnection agreement between Kentucky Utilities Company and East Kentucky Power Cooperative, Inc. The omitted pages have been filed.

*Comment date:* October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**10. Duke Energy Corporation**

[Docket No. ER01–1616–004]

Take notice that on September 10, 2001, Duke Energy Corporation (Duke) filed a revised compliance filing with the Federal Energy Regulatory Commission (Commission), submitting revisions to its OATT and an unexecuted Interconnection and Operating Agreement with Carolina Power & Light Company in the above-captioned docket.

*Comment date:* October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

**11. Rochester Gas and Electric Corporation**

[Docket Nos. ER01–2053–002; and ER01–1735–002]

Take notice that on September 10, 2001, Rochester Gas and Electric Corporation (RG&E) submitted a compliance filing with the Federal Energy Regulatory Commission (Commission), pursuant to the Commission's letter order issued on August 10, 2001 (August 10 Order) in Docket No. ER01–2053–000. RG&E's compliance filing includes a Statement

of Policy and Code of Conduct as required in the August 10 Order. This filing also contains a proposal to redesignate the tariff sheets of RG&E's market-based rate tariff.

*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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–23809 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Sunshine Act Meeting

September 19, 2001.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**DATE AND TIME:** September 26, 2001, 10 a.m.

**PLACE:** Room 2C, 888 First Street, NE., Washington, DC 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

**Note:** Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** David P. Boergers, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

**774th Meeting September 26, 2001; Regular Meeting 10 a.m.**

*Administrative*

A–1.
Docket# AD01–1, 000, Strategic and 2002 Business Plans
A–2.
Docket# AD01–2, 000, Infrastructure Adequacy
A–3.
Docket# AD01–3, 000, California Infrastructure Update
A–4.
Docket# AD01–4, 000, Building Update
A–5.
Docket# AD01–5, 000, Delegations of Authority

*Miscellaneous Agenda*

M–1.
Docket# RM01–10, 000, Standards of Conduct for Transmission Providers
M–2.
Docket# RM01–11, 000, Electronic Service of Documents

*Markets, Tariffs and Rates—Electric*

E–1.
Docket# EX01–1, 000, Discussion on Provision of Adequate Electrical Capacity
E–2.
Docket# EX01–2, 000, Significant National Transmission Constraints Discussion
E–3.
Docket# EX01–3, 000, Discussion of RTO Progress
E–4.
Docket# EX01–4, 000, Discussion of Market-Based Rate Reviews
E–5.
Omitted
E–6.
Docket# ER01–2735, 000, PJM Interconnection, L.L.C.
E–7.
Omitted
E–8.
Docket# ER01–2822, 000, Southern Power Company
Other#s ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
ER01–2824, 000, Southern Power Company
E–9.
Docket# ER01–2736; 000 Niagara Mohawk Power Corporation
Other#s ER01–2803, 000, Niagara Mohawk Power Corporation
E–10.
Docket# EC01–130, 000, American Electric Power Service Corporation
Other#s ER01–2668, 000, American Electric Power Company, Inc.
E–11.
Docket# EF00–2012, 000, United States Department of Energy—Bonneville Power Administration
Other#s EF00–2012, 001, United States Department of Energy—Bonneville Power Administration
E–12.
Docket# ER01–2732, 000, Perryville Energy Partners, L.L.C.
Other#s ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
E–13.
Docket# EC01–97, 000, Energy East Corporation and RGS Energy Group, Inc.
E–14.
Docket# EC01–101, 000, Potomac Electric Power Company
E–15.
Docket# TX96–4, 000, Suffolk County Electrical Agency
E–16.
Docket# TX95–5, 000, Southern Company Services, Inc.
E–17.
Omitted
E–18.
Omitted
E–19.
Docket# ER01–2099, 001, Neptune Regional Tranmission System, LLC
E–20.
Omitted
E–21.
Docket# ER01–770, 003, Arizona Public Service Company
Other#s ER01–917, 003, Arizona Public Service Company
E–22.
Docket# ER00–864, 001, New York Independent System Operator, Inc.
E–23.
Docket# ER00–1969, 002, New York Independent System Operator, Inc.
Other#s EL00–57, 001, Niagara Mohawk Power Corporation v. New York Independent System Operator, Inc.
EL00–57, 002, Niagara Mohawk Power Corporation v. New York Independent System Operator, Inc.
EL00–60, 001, Orion Power New York GP, Inc. v. New York Independent System Operator, Inc.
EL00–60, 002, Orion Power New York GP, Inc. v. New York Independent System Operator, Inc.
EL00–63, 001, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.
EL00–63, 002, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.

EL00–64, 000, Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc.
EL00–64, 002, Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc.
ER00–1969, 003, New York Independent System Operator, Inc.
E–24.
Docket# EL00–62, 004, ISO New England Inc.
Other#s EL00–62, 005, ISO New England Inc.
EL00–62, 006, ISO New England Inc.
E–25.
Docket# ER00–3038, 001, New York Independent System Operator, Inc.
Other#s EL00–70, 002, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.
E–26.
Docket# TX00–1, 001, United States Department of Energy—Western Area Power Administration, Colorado River Storage Project Management Center
Other#s ER00–896, 001 Public Service Company of New Mexico
E–27.
Docket# EL99–14, 002, Southwestern Electric Cooperative, Inc. v. Soyland Power Cooperative, Inc.
E–28.
Omitted
E–29.
Docket# EL01–45, 004, Consolidated Edison Company of New York
Other#s ER01–1385, 002, Consolidated Edison Company of New York
E–30.
Omitted
E–31.
Omitted
E–32.
Omitted
E–33.
Docket# EL01–3, 000, Morgan Stanley Capital Group, Inc. v. PJM Interconnection, L.L.C.
E–34.
Docket# EL01–89, 000, Morgan Stanley Capital Group, Inc. v. California Independent System Operator Corporation
E–35.
Docket# EL00–62, 028, ISO New England, Inc.
E–36.
Omitted
E–37.
Docket# ER01–2784, 000, Calpine Construction Finance Company, L.P.
Other#s ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
E–38.
Docket# EL01–74, 000, Western Systems Coordinating Council, Western Regional Transmission Association and Southwest Regional Transmission Association
Other#s ER01–2058, 000, Western Systems Coordinating Council, Western Regional Transmission Association and Southwest Regional Transmission Association

*Markets, Tariffs and Rates—Gas*

G–1.
Docket# RP01–521, 000, Trailblazer Pipeline Company
G–2.
Docket# RP01–561, 000, Egan Hub Partners, L.P.
G–3.
Docket# RP01–510, 000, Columbia Gas Transmission Corporation
G–4.
Docket# RP01–563, 000, Northern Border Pipeline Company
G–5.
Docket# RP01–536, 000, Florida Gas Transmission Company
G–6.
Docket# RP01–350, 000, Colorado Interstate Gas Company
Other#s RP01–200, 002, Colorado Interstate Gas Company
RP01–350, 001, Colorado Interstate Gas Company
G–7.
Omitted
G–8.
Omitted
G–9.
Docket# RP01–570, 000, Colorado Interstate Gas Company
G–10.
Docket# PR01–13, 000, DeSoto Pipeline Company, Inc.
Other#s PR01–13, 001, DeSoto Pipeline Company, Inc.
G–11.
Docket# PR01–14, 000, Enogex, Inc.
G–12.
Docket# RP01–298, 000, Williams Gas Pipelines Central, Inc.
G–13.
Omitted
G–14.
Omitted
G–15.
Omitted
G–16.
Omitted
G–17.
Docket# PR00–9, 000, EPGT Texas Pipeline, L.P.
G–18.
Docket# IS01–292, 000, SFPP, L.P.
G–19.
Docket# RP00–601, 003, Dominion Transmission, Inc.
G–20.
Docket# RP01–292, 004, Mississippi River Transmission Corporation
Other#s RP01–292, 003, Mississippi River Transmission Corporation
G–21.
Omitted
G–22.
Omitted
G–23.
Omitted
G–24.
Docket# MG01–22, 000, Iroquois Gas Transmission System, L.P.
G–25.
Docket# RM96–1, 015, Standards for Business Practices of Interstate Natural Gas Pipelines
G–26.
Docket# RM96–1, 019, Standards for Business Practices of Interstate Natural Gas Pipelines
Other#s RM98–12, 008, Regulation of Interstate Natural Gas Transportation Services
RM98–10, 008, Regulation of Short-Term Natural Gas Transportation Services
G–27.
Omitted
G–28.
Docket# RP01–433, 000, Summit Power NW, LLC v. Portland General Electric Company
G–29.
Omitted
G–30.
Docket# RP01–236, 001, Transcontinental Gas Pipe Line Corporation
Other#s RP00–481, 001, Transcontinental Gas Pipe Line Corporation
RP00–553, 004, Transcontinental Gas Pipe Line Corporation
G–31.
Docket# RP01–245, 003, Transcontinental Gas Pipe Line Corporation
G–32.
Docket# IS01–291, 000, Calnev Pipe Line, L.L.C.
G–33.
Docket# GX01–1, 000, Discussion of Gas Pipeline Operational Flow Orders
G–34.
Docket# GX01–2, 000, Discussion of Efficient and Effective Collection of Data

*Energy Projects—Hydro*

H–1.
Docket# P–2114, 096, Public Utility District No. 2 of Grant County, Washington
Other#s P–2114, 097, Public Utility District No. 2 of Grant County, Washington
H–2.
Docket# P–2413, 040, Georgia Power Company
H–3.
Omitted

*Energy Projects—Certificates*

C–1.
Docket# CP00–36, 002, Guardian Pipeline, L.L.C.
Other#s CP01–401, 000, Northern Natural Gas Company
C–2.
Docket# CP01–153, 000, Tuscarora Gas Transmission Company
Other#s CP01–153, 001, Tuscarora Gas Transmission Company
C–3.
Omitted
C–4.
Docket# CP01–17, 001, Algonquin Gas Transmission Company
Other#s CP01–17, 002, Algonquin Gas Transmission Company
C–5.
Docket# CP95–516, 002, Enron Gulf Coast Gathering, L.P.
Other#s CP95–519, 002, Northern Natural Gas Company

C–6.
Docket# CP01–90, 001, El Paso Natural Gas Company
Other#s RP00–336, 004, El Paso Natural Gas Company
C–7.
Docket# CP01–157, 001, Georgia-Pacific Corporation

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–23910 Filed 9–20–01; 2:07 pm]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Sunshine Act Meeting

September 19, 2001.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

*Agency Holding Meeting:* Federal Energy Regulatory Commission.

*Date and Time:* September 26, 2001 (Following Regular Commission Meeting).

*Place:* Room 2C, 888 First Street, NE., Washington, DC 20426.

*Status:* Closed.

*Matters to be Considered:* (1) The Possible Initiation of an Administrative Proceeding. (2) A Report on Pending Investigations.

*Contact Person for More Information:* David P. Boergers, Secretary Telephone (202) 208–0400.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–23911 Filed 9–20–01; 2:08 pm]

BILLING CODE 6717–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7062–6]**

### EPA Fellowships for Graduate and Undergraduate Environmental Study: Request for Pre-Applications

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of request for pre-applications.

**SUMMARY:** This notice provides information on the availability of fiscal year 2002 Fellowships for Graduate Environmental Study, Minority Academic Institutions (MAI) Fellowships for Graduate Environmental Study, and Minority Academic Institutions (MAI) Undergraduate Student Fellowships, in which the areas of interest in academic disciplines relating to environmental research, description of fellowship awards, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth. Fellowships will be competitively awarded following peer review.

**DATES:** The deadline for pre-applications is 4 PM, EST, on November 19, 2001.

**FOR FURTHER INFORMATION CONTACT:** U.S. Environmental Protection Agency, National Center for Environmental Research (8703R), 1200 Pennsylvania Avenue, NW, Washington DC 20460, telephone (800) 490–9194. The complete announcements can be accessed on the Internet from the EPA homepage: *http://www.epa.gov/ncerqa* under ''announcements.''

**SUPPLEMENTARY INFORMATION:** The U.S. Environmental Protection Agency, as part of its Science to Achieve Results (STAR) program, is offering, in environmentally related fields of study: (1) Graduate Fellowships for master's and doctoral level students, (2) MAI Graduate Fellowships for master's and doctoral level students, and (3) MAI Undergraduate Fellowships for bachelor level students. The purpose of the fellowship programs is to encourage promising students to obtain undergraduate and graduate degrees and pursue careers in environmentally related fields. Subject to availability of funding, EPA plans to award approximately 100 Fellowships for Graduate Environmental Study, 25 MAI Fellowships for Graduate Environmental Study, and 20 MAI Undergraduate Student Fellowships. The announcements for the fellowship programs provide relevant background information, describe the fellowship awards, and outline the pre-application and review process. Top ranked applicants following the peer review will be required to submit a brief formal application.

Contact person for the Fellowships for Graduate Environmental Study and the MAI Fellowships for Graduate Environmental Study is Virginia Broadway *(broadway.virginia@epa.gov),* telephone 202–564–6923. Contact person for the MAI Undergraduate Student Fellowships is Georgette Boddie *(boddie.georgette@epa.gov),* telephone 202–564–6926.

**Ann Akland,**

*Acting Assistant Administrator for Research and Development.*

[FR Doc. 01–23751 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL –7063–6]**

### National Wastewater Management Excellence Awards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice: announcement of EPA's 2001 National Wastewater Management Excellence Awards Presentation at the Water Environment Federation's Technical Conference (WEFTEC).

**SUMMARY:** The Environmental Protection Agency will recognize municipalities and industries for outstanding and innovative technological achievements in wastewater treatment and pollution abatement programs at the annual National Wastewater Management Excellence Awards ceremony during the Water Environment Federation's Technical Conference (WEFTEC) in Atlanta, Georgia. We are recognizing programs and projects in operations and maintenance, biosolids management, pretreatment and combined sewer overflow controls. This action also announces the 2001 national awards winners.

**DATES:** Monday, October 15, 2001, 11:30 am to 1 pm.

**ADDRESSES:** The national awards presentation ceremony will be held at the Georgia World Congress Center, 285 International Boulevard, NW, Atlanta, Georgia.

**FOR FURTHER INFORMATION CONTACT:** Maria E. Campbell at the U.S. Environmental Protection Agency, Office of Wastewater Management, Municipal Assistance Branch, 1200 Pennsylvania Avenue NW., (4204–M), Ariel Rios Building, Washington, DC 20460, (202) 564–0628, or *campbell.maria@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The National Wastewater Management Excellence Awards program is authorized under section 501 (a) and (e) of the Clean Water Act. The awards program provides national recognition and heightens overall public support of programs developed to protect the public's health and safety and the nation's water quality. State water pollution control agencies and EPA regional offices make recommendations to headquarters for the national awards. Programs being recognized are in compliance with applicable water quality requirements and have a satisfactory record with respect to environmental quality. Municipalities and industries are recognized for their

demonstrated achievements through the following:

(1) Outstanding operations and maintenance practices at publicly owned wastewater treatment facilities;

(2) Exemplary biosolids operating projects, and special biosolids management achievements;

(3) Municipal implementation and enforcement of local pretreatment programs; and,

(4) Combined sewer overflow control programs. Winners and categories for the EPA's 2001 National Wastewater Management Excellence Awards program are as follows:

**Category**

*Operations and Maintenance Awards*

First Place

Littleton/Englewood Wastewater Treatment Plant, Englewood, Colorado—Large Advanced Category

Metropolitan Council Stillwater Wastewater Treatment Plant, Oak Park Heights, Minnesota—Medium Advanced Category (tie)

City of Rutland Wastewater Treatment Facility, Rutland, Vermont—Medium Advanced Category (tie)

Denver S.E. Suburban Water & Sewer District (Pinery Water Reclamation Plant), Parker, Colorado Small—Advanced Category

Lebanon Wastewater Treatment Facility, City of Lebanon, New Hampshire—Medium Secondary Category

Troy/Jay Wastewater Treatment Facility, Troy, Vermont—Small Secondary Category

South Tahoe Public Utility District, South Lake Tahoe, California—Large Non-discharging Category

Pickaway Correctional Institution Wastewater Treatment Plant, Orient, Ohio—Most Improved Plant

Ohio EPA Compliance Assistance Unit—Section 104(g) Trainer for the Pickaway Correctional Institution Wastewater Treatment Plant

Second Place

Central Regional Wastewater System, Grande Prairie, Texas—Large Advanced Category

Fairmont Wastewater Treatment Plant-Fairmont Sanitary Sewer Board, Fairmont, West Virginia—Medium Advanced Category

County of Berks Welfare Tract Sewage Treatment Plant, Bern Township, Pennsylvania—Small Advanced Category

Elk River Wastewater Treatment Plant, Elk River, Minnesota—Medium Secondary Category

Isle Royale National Park, Rock Harbor Wastewater Treatment Facility, Houghton, Michigan—Small Secondary Category

Orange County South Water Reclamation Facility, Orlando, Florida—Large Non-discharging Category

Bancroft Wastewater Treatment Facility Village of Bancroft, Nebraska—Most Improved Plant

Russell Irwin, Nebraska Department of Environmental Quality—Section 104(g) Trainer for the Village of Bancroft Wastewater Treatment Facility

*Exemplary Biosolids Management Awards*

First Place

Anne Arundel County, Maryland Department of Public Works, Annapolis, Maryland—Large Operating Projects

City of Gresham Wastewater Treatment Plant, Gresham, Oregon—Small Operating Projects

Second Place

San Jose/Santa Clara Water Pollution Control Plant, San Jose/Santa Clara, California—Large Operating Projects

Special Award

Climax Molybdenum Company, and the resort communities of Breckenridge, Frisco, Dillon, and Silverthorne, Colorado—For outstanding use of biosolids to help rehabilitate a large-scale high altitude mine site.

Hawk Ridge Compost Facility, Unity, Maine—Private public partnership for biosolids and other organic by-product composting.

*Pretreatment Awards*

First Place

Central Contra Costa Sanitary District, Martinez, California—0–25 Significant Industrial Users (SIUs)

Clean Water Services, Hillsboro, Oregon 26–100 SIUs

Second Place

Goleta Sanitary District, Goleta, California—0–25 SIUs

Camden County Municipal Utilities Authority, Camden, New Jersey—26–100 SIUs

*Combined Sewer Overflow Controls Awards*

First Place

Columbus Water Works, Columbus, Georgia—Municipal

Second Place

City of Brewer, Brewer, Maine—Municipal

Dated: September 14, 2001.

**Alfred Lindsey,**

*Acting Director, Office of Wastewater Management.*

[FR Doc. 01–23752 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Approved by Office of Management and Budget

September 17, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418–0214.

**Federal Communications Commission**

*OMB Control No.:* 3060–0813.

*Expiration Date:* 07/31/04.

*Title:* Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Calling Systems.

*Form No.:* N/A.

*Respondents:* Business and Government Entities.

*Responses:* 42,031.

*Estimated Time Per Response:* Between 1 hour and 5 hours.

*Estimated Total Annual Burden:* 195,100 hours.

*Total Annual Cost:* 0.

*Description:* The notification burden on Public Safety Answering Points (PSAPs) will be used by the carriers to verify that wireless 911 calls are referred to PSAPs who have the technical capability to use the data to the caller's benefit. TTY and dispatch notification requirements will be used to avoid consumer confusion as to the capabilities of their handsets in reaching help in emergency situations, thus minimizing the possibility of critical delays in response time. The annual TTY reports will be used to monitor the progress of TTY technology and thus compatibility. Consultations on the

specific meaning assigned to pseudo-ANI are appropriate to ensure that all parties are working with the same information. Coordination between carriers and State and local entities to determine the appropriate PSAPs to receive and respond to E911 calls is necessary because of the difficulty in assigning PSAPs based on the location of the wireless caller. The deployment schedule that must be submitted by carriers seeking a waiver of the E911 Phase I or Phase II deployment schedule will be used by the Commission to guarantee that the rules adopted in this proceeding are enforced in as timely a manner as possible within technological constraints.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01–23708 Filed 9–21–01; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

**[CC Docket No. 92–237; DA 01–2195]**

## Next Meeting of the North American Numbering Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** On September 20, 2001, the Commission released a public notice announcing the September 25, 2001 conference call meeting and agenda of the North American Numbering Council (NANC). The conference bridge number for domestic participants is 1–888–869–0374 (toll free). The call in number for international participants is (904) 779–4767 (caller pays). Due to limited port space, NANC members and Commission staff will have first priority on the call. Members of the public may join the call as remaining port space permits or may attend in person at the Federal Communications Commission, Portals II, 445 Twelfth Street, SW., Room 8–C245, Washington, DC 20554. The intended effect of this action is to make the public aware of the NANC's conference call meeting and agenda scheduled for September 25, 2001. This notice of the September 25, 2001, NANC conference call meeting is being published in the **Federal Register** less than 15 calendar days prior to the meeting due to the necessity of canceling the September 11–12, 2001 NANC meeting and NANC's need to discuss a time sensitive issue before the next scheduled meeting. This statement complies with the General Services Administration Management regulations implementing the Federal Advisory Committee Act. See 41 CFR 101–6.1015(b)(2).

**FOR FURTHER INFORMATION CONTACT:** Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–2320 or *dblue@fcc.gov.* The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 6A207, Washington, DC 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

**SUPPLEMENTARY INFORMATION:** This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received one business day before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Requests to make an oral statement must be received one business day before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

### Proposed Agenda

1. Discussion and development of NANC recommendation to the Federal Communications Commission regarding the NANPA Contract Technical Requirements.

Dated: September 20, 2001.

Federal Communications Commission.

**Diane Griffin Harmon,**

*Acting Chief, Network Services Division, Common Carrier Bureau.*

[FR Doc. 01–23974 Filed 9–21–01; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL RESERVE SYSTEM

## Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 19, 2001.

**A. Federal Reserve Bank of Atlanta** (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

*1. FirstCity Bancorp, Inc.,* Gibson, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of FirstCity Bank (formerly Bank of Gibson), Gibson, Georgia.

**B. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

*1. South Plains Financial, Inc.,* Lubbock, Texas; and South Plains Delaware Financial Corporation, Dover, Delaware; to acquire 100 percent of the voting shares of Zia Financial Corporation, Ruidoso, New Mexico, and thereby indirectly acquire City Bank New Mexico, Ruidoso, New Mexico, a de novo bank.

In connection with this application, Zia Financial Corporation, Ruidoso, New Mexico has applied to become a bank holding company by acquiring 100 percent of the voting shares of City Bank New Mexico, Ruidoso, New Mexico.

Board of Governors of the Federal Reserve System, September 19, 2001.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 01–23803 Filed 9–21–00; 8:45 am]

BILLING CODE 6210–01–S

## GENERAL SERVICES ADMINISTRATION

### Office of Communications; Cancellation of an Optional Form by the Department of State

**AGENCY:** Office of Communications, GSA.

**ACTION:** Notice.

**SUMMARY:** The Department of State cancelled the following Optional Form: OF 156K, Nonimmigrant Fiance(e) Visa Application.

This form is now a State Department form (DS Form 2052). You can request copies of the new form from: Department of State, A/RPS/DIR, SA–22, 18th and G Streets, NW; Suite 2400, Washington, DC 20520–2201, 202.312.9605.

**DATES:** Effective September 24, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles Cunningham, Department of State, 202.312.9605.

Dated: September 17, 2001.

**Barbara M. Williams,**

*Deputy Standard and Optional Forms Management Officer, General Services Administration.*

[FR Doc. 01–23758 Filed 9–21–01; 8:45 am]

BILLING CODE 6820–34–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

*Name:* Advisory Committee on Immunization Practices (ACIP).

*Times and Dates:*

8:30 a.m.–6:15 p.m., October 17, 2001.
8 a.m.–4:15 p.m., October 18, 2001.

*Place:* Atlanta Marriott Century Center, 2000 Century Boulevard, NE, Atlanta, Georgia 30345–3377.

*Status:* Open to the public, limited only by the space available.

*Purpose:* The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

*Matters to be Discussed:* The agenda will include a discussion on rotavirus vaccine and intussusception; live attenuated influenza vaccine and potential pediatric influenza vaccine recommendations; update on 2001–2002 influenza vaccine supply; hepatitis B recommendation; update on varicella disease and varicella vaccine in the United States: vaccine coverage, vaccine safety and effectiveness, status of child care and school requirements, and decline in varicella disease from active and passive surveillance data; pneumococcal conjugate vaccine: effect of the vaccine on invasive disease during 2000 and on vaccine supply; Institute of Medicine recommendations on thimerosal; updates from the National Immunization Program, Food and Drug Administration, Vaccine Injury Compensation Program, National Institutes of Health, National Vaccine Program, and the National Center for Infectious Diseases; recommended childhood immunization schedule; use of oral polio virus to control outbreaks of poliomyelitis; adult harmonized schedule; receipt of rubella vaccine before pregnancy; Occupational Safety and Health Administration requirement for using safety engineered needles and implications for childhood immunization delivery; adaptation of vaccine formulary selection algorithm to web-accessible tool; and hepatitis A vaccine.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Gloria A. Kovach, Program Analyst, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE, m/s E61, Atlanta, Georgia 30333. Telephone 404/639–8096.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 18, 2001.

**John Burckhardt,**

*Acting Director, Management Analysis and Services Office.*

[FR Doc. 01–23747 Filed 9–21–01; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Study Team for the Los Alamos Historical Document Retrieval and Assessment Project

The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the following meeting: Cancelled.

*Name:* Public Meeting of the Study Team for the Los Alamos Historical Document Retrieval and Assessment Project.

*Time and Date:* 5 p.m.–7 p.m., September 25, 2001.

*Place:* Radisson Santa Fe Hotel (Board Room), 750 N. St. Francis Drive, Santa Fe, New Mexico 87501, telephone 505–992–5800.

Status: Meeting Cancelled. Published in the **Federal Register:** August 31, 2001 (Volume 66, Number 170) [Notices] [Page 46014] From the **Federal Register** Online via GPO Access (*wais.access.gpo.gov*) [DOCID: fr31au01–57]

*Contact Persons for Additional Information:* Paul G. Renard, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, Building 6, Room T–027, Executive Park Drive (E–39), Atlanta, GA 30329, telephone 404–498–1817, fax 404–498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 18, 2001.

**John Burckhardt,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 01–23748 Filed 9–21–01; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

*Name:* Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES).

*Times and Dates:* 8:30 a.m.–4:45 p.m., September 20, 2001. 8:30 a.m.–12 noon, September 21, 2001.

*Place:* Radisson Hotel Charleston, 170 Lockwood Drive, Charleston, South Carolina 29403, telephone (843) 723–3000, fax (843) 723–0276.

*Status:* Meeting cancelled. Published in the **Federal Register:** August 30, 2001 (Volume 66, Number 169) [Notices] [Page 45859–78860] From the **Federal Register** Online via GPO Access (*wais.access.gpo.gov*) [DOCID: fr30au01–64]

*Contact Person for More Information:* Paul G. Renard, Executive Secretary, SRSHES, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, NE (E–39), Atlanta, GA 30333, telephone 404/498–1800, fax 404/498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 18, 2001.

**John Burckhardt,**

*Acting Director, Management Analysis and Services Office.*

[FR Doc. 01–23744 Filed 9–21–01; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES) Meeting: Cancelled

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

*Name:* Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES) meeting Cancelled.

*Times and Dates:* 8:30 a.m.–4:45 p.m., October 16, 2001. 8:30 a.m.–3:45 p.m., October 17, 2001.

*Place:* WestCoast Pocatello Hotel, 1555 Pocatello Creek Road, Pocatello, Idaho 83201, telephone, (208)233–2200, fax (208)234–4524.

*Status:* Meeting Cancelled. Published in the **Federal Register**: September 18, 2001 (Volume 66, Number 181) [Notices] [Page 48147] From the **Federal Register** Online via GPO Access [*wais.access.gpo.gov*] [DOCID:fr18se01–45]

*Contact Person for More Information:* Paul G. Renard, Executive Secretary, INEELHES, NCEH, CDC, 1600 Clifton Road, NE. (E–39), Atlanta, GA 30333, telephone (404)498–1800, fax (404)498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 18, 2001.

**John Burckhardt,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 01–23746 Filed 9–21–01; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Announcement of Financial Assistance To Expand Head Start Enrollment to Unserved Communities

**AGENCY:** Administration on Children, Youth and Families (ACYF), ACF, DHHS.

**ACTION:** Notice.

**SUMMARY:** The Head Start Bureau of the Administration on Children, Youth and Families announces that competing applications will be accepted to fund new Head Start services in:

(1) Counties (or sub-county areas) not currently served by Head Start (see Appendix A);

(2) Federally-recognized American Indian reservations and Alaska Native villages not currently served by Head Start and;

(3) States where Head Start services are not available for the children of migrant farmworkers (Connecticut, Iowa, Kansas, Kentucky, Massachusetts, Mississippi, Missouri, Montana, Oklahoma, Nevada, New Mexico, and the State of Louisiana outside the Parishes of Tangipahoa, St. Helena, and St. Tammany.

It is expected that a total of approximately $4,000,000 will be awarded under this Announcement Program. These funds were appropriated in fiscal year 2001 with authority to expend them in fiscal year 2002.

The Head Start program is authorized by the Head Start Act, 42 U.S.C. 9831 *et seq.*, as amended.

**DATES:** The closing date for receipt of applications is January 14, 2002.

**ADDRESSES:** Address applications to: Head Start Unserved Communities Competition, ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209, Phone # 1–800–351–2293.

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 email to: *ehs@lcgnet.com.*

**Evaluation Criteria**

Applications will be reviewed and evaluated on the following criteria:

*1. Objectives and Need for Assistance (20 Points)*

The extent to which the application provides current data on the needs of young children, families, and communities for expanded Head Start services, including analyses of changes in poverty and family mobility, employment opportunities and welfare reform, and any special unserved or underserved populations or groups.

The extent to which the application provides convincing evidence of the involvement and support of other organizations serving low-income families in assessing family and community needs and resources, developing proposed plans and strategies, and in active partnerships to implement the proposed expansion.

*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.

*3. Approach (25 Points)*

The extent to which the application includes a detailed, well-organized, and credible plan of action to carry out the proposed expansion of Head Start services, including plans for recruitment and selection of children, arrangements for transportation and facilities and plans for start-up of the new services.

The extent to which the application includes clear plans and a demonstrated commitment to implement the Head Start Program Performance Standards, including involvement of parents and families in program design and decision making.

The extent to which the application proposes, where possible, to collaborate with other community providers to deliver a high quality, cost-effective Head Start program.

The extent to which the application provides sound, cost-effective staffing, organizational and management strategies, including staff training and development to ensure that the expansion provides high quality and responsive services.

The extent to which the application demonstrates a sound strategy for facilitating the transition of Head Start children from the Head Start program to the local school system by coordinating with the local education agency and the local schools who will be enrolling Head Start children.

*4. Organizational Capacity & Experience (20 Points)*

The extent of the demonstrated capacity of the applicant organization, key leaders and managers and, where appropriate, proposed partnering organizations in:

Providing high quality, responsive services to young children and families, including evidence of the capability to meet the Head Start Program Performance Standards; Managing expansion of program services in an effective and timely manner; and

Managing successful partnerships to serve young children and their families that involve sharing resources, staffing and facilities.

*5. Cost Effectiveness and Budget Appropriateness (25 Points)*

The extent to which the proposed budget is reasonable, appropriate and cost effective in view of the proposed services, strategies and anticipated outcomes.

The extent to which the applicant has mobilized significant additional resources to complement Head Start expansion funds.

**Executive Order 12372—Notification Process**

This program is covered under Executive Order (E.O.) 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.

Applicants 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 soon 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 the 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 date 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 ACF, they should be addressed to: William Wilson, Head Start Bureau, Grants Officer, Room 2220, 330 C Street, SW., Washington, DC 20447, Attn: Head Start Unserved Communities Competition.

A list of Single Points of Contact for each State and territory can be found at the following web site: *www.whitehouse.gov/omb/grants/spoc.html.*

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: September 19, 2001.

**James A. Harrell,**

*Acting Commissioner, Administration on Children, Youth and Families.*

## Appendix A

COUNTIES UNSERVED BY HEAD START

[8/31/01]

| State | County |
|---|---|
| California | Alpine County |

COUNTIES UNSERVED BY HEAD START—Continued

[8/31/01]

| State | County |
|---|---|
| Colorado | Baca County |
| | Cheyenne County |
| | Custer County |
| | Dolores County |
| | Douglas County |
| | Grand County |
| | Gunnison County |
| | Hinsdale County |
| | Jackson County |
| | Kiowa County |
| | Kit Carson County |
| | Mineral County |
| | Ouray County |
| | Phillips County |
| | Pitkin County |
| | Rio Blanco County |
| | Routt County |
| | San Juan County |
| | San Miguel County |
| | Sedgwick County |
| | Summit County |
| | Teller County |
| Georgia | Chattahoochee County |
| | Echols County |
| | Taliaferro County |
| Idaho | Butte County |
| | Clark County |
| | Custer County |
| | Southern Bannock County |
| | Fremont County |
| | Jefferson County |
| | Lemhi County |
| | Madison County |
| Iowa | Adair County |
| Kansas | Barber County |
| | Chase County |
| | Chautauqua County |
| | Clark County |
| | Comanche County |
| | Edwards County |
| | Elk County |
| | Greeley County |
| | Greenwood County |
| | Hamilton County |
| | Harper County |
| | Hodgeman County |
| | Kiowa County |
| | Lane County |
| | Lincoln County |
| | Meade County |
| | Mitchell County |
| | Morris County |
| | Morton County |
| | Ness County |
| | Osbourne County |
| | Osage County |
| | Rooks County |
| Minnesota | Cook County |

COUNTIES UNSERVED BY HEAD START—Continued

[8/31/01]

| State | County |
|---|---|
| Montana | Big Horn County |
| | Carbon County |
| | Carter County |
| | Chouteau County |
| | Daniels County |
| | Fallon County |
| | Lake County |
| | McCone County |
| | Powder River County |
| | Prairie County |
| | Roosevelt County |
| | Rosebud County |
| | Sheridan County |
| | Stillwater County |
| | Sweet Grass County |
| | Treasure County |
| | Yellowstone National Park County |
| Nebraska | Arthur County |
| | Banner County |
| | Blaine County |
| | Boyd County |
| | Dixon County |
| | Dundy County |
| | Gosper County |
| | Grant County |
| | Hayes County |
| | Hooker County |
| | Johnson County |
| | Keya Paha County |
| | Logan County |
| | Loup County |
| | McPherson County |
| | Perkins County |
| | Pierce County |
| | Rock County |
| | Sioux County |
| | Thomas County |
| | Washington County |
| | Wheeler County |
| Nevada | Douglas County |
| | Esmeralda County |
| | Eureka County |
| | Lander County |
| | Lincoln County |
| | Nye County |
| | Pershing County |
| | Storey County |
| New Mexico | Harding County |
| | Los Alamos County |
| North Carolina | Polk County |
| North Dakota | Burke County |
| | Divide County |
| | Grant County |
| | McKenzie County |
| | Mercer County |
| | Mountrail County |
| | Oliver County |
| | Renville County |
| | Rolette County |
| | Sioux County |
| | Dewey County |
| | Todd County |
| | Ziebach County |
| Oklahoma | Dewey County |

COUNTIES UNSERVED BY HEAD START—Continued

[8/31/01]

| State | County |
|---|---|
| Texas | Armstrong County |
| | Borden County |
| | Briscoe County |
| | Carson County |
| | Cochran County |
| | Culberson County |
| | Franklin County |
| | Dickens County |
| | Hansford County |
| | Hartley County |
| | Hemphill County |
| | Jack County |
| | Jeff Davis County |
| | Kennedy County |
| | Kent County |
| | King County |
| | Lipscomb County |
| | Loving County |
| | McMullen County |
| Texas | Motley County |
| | Oldham County |
| | Presidio County |
| | Rains County |
| | Roberts County |
| | Sherman County |
| | Stonewall County |
| | Terrell County |
| | Throcknorton County |
| | Wheeler County |
| | Winkler County |
| Utah | Daggett County |
| | Sanpete County |
| Virginia | Prince George County |
| | Colonial Heights County |
| Washington State. | Columbia County |
| | Garfield County |
| | Lincoln County |
| Wisconsin | Ozaukee County |
| Wyoming | Teton County |

[FR Doc. 01–23767 Filed 9–21–01; 8:45 am]

BILLING CODE 4184–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

**[Program Notice No. ACF/ACYF/RHYP 2002–01]**

### Notice of Availability of Financial Assistance and Request for Applications for the National Communication System for Runaway and Homeless Youth Grant

**AGENCY:** Family and Youth Services Bureau, Administration on Children, Youth and Families, ACF, HHS.

**ACTION:** This notice announces the availability of financial assistance and request for applications for the Fiscal Year 2002 National Communication System for Runaway and Homeless Youth.

This notice announces the availability of the full official fiscal year 2002 Program Announcement for the National Communication System for Runaway and Homeless Youth. The full official announcement must be used to apply for grant funding under the competitive grant area and is available by calling or writing the ACYF Operations Center (address below) or by downloading the announcement from the FYSB Web site at *http://www.acf.dhhs.gov/programs/fysb/fund-anncmt.htm*

*Legislative Authority:* The Runaway and Homeless Youth Act (RHY Act) as amended Pub. L. 106–71 authorizes a grant for the National Communication System for Runaway and Homeless Youth.

*Deadlines:* The deadline for RECEIPT of applications for a new grant under this announcement is:

| CFDA# | Programs | Deadline dates | Deadline times |
|---|---|---|---|
| 93.623 | National Communication System for Runaway and Homeless Youth. | November 30, 2001. | 4:30 p.m. (EDT) |

*Mailing and Delivery Instructions:* Applications must be in hard copy. Mailed applications and applications hand delivered by applicants, applicant couriers, overnight/express mail couriers or any other method of hand delivery shall be considered as meeting an announced deadline if they are received on or before the deadline, at the following address: ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209, Telephone: 1–800–351–2293, Email: FYSB@lcgnet.com.

Applications may be hand delivered to the above address between the hours of 8 a.m. and 4:30 p.m. (EDT), Monday through Friday (excluding Federal Holidays).

Applicants are responsible for mailing and delivering applications well in advance of deadlines to ensure that the applications are received on time. Applications received after 4:30 p.m. (EDT) on the deadline date will be classified as late. Postmarks and other similar documents do not establish receipt of an application.

ACF will not accept applications delivered by fax or e-mail regardless of date or time of submission and receipt.

*Late Applications:* Applications which do not meet the criteria stated above and are not received by the deadline date and time are considered late applications. The Administration for Children and Families (ACF) will notify each late applicant that its application will not be considered in the current competition.

*Extension of Deadline.* ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is widespread disruption of the mail service, or for other disruptions of services, such as a prolonged blackout, that affect the public at large. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

**SUPPLEMENTARY INFORMATION:** Grant award for FY 2002 funds will be made by September 30, 2002, for the National Communications System for Runaway and Homeless Youth.

The estimated funds available that may be awarded under this program announcement in $1,000,000.

**Competitive Grant Area and Summary of Evaluation Criteria**

*Part I: Competitive Area: National Communication System for Runaway and Homeless Youth (CFDA#93.623)*

*Program Purpose, Goals and Objectives:* The Administration on Children, Youth and Families will award one new competitive grant for approximately $1,000,000 to operate the Runaway and Homeless Youth National Communication System (NCS). The overall purpose of the NCS is to link youth with a family member or guardian and/or an available resource that can provide and/or assist the youth in acquiring needed services. To fulfill this purpose, the system's goals must include the provision of information, referral services, crisis intervention and communication services to runaway and homeless youth and their families.

To fulfill the objectives of the legislation, the National Communication System must provide a neutral and confidential channel of communication that is available on a 24-hours per day, seven days per week basis throughout the United States, and through which runaway and homeless youth may re-establish contact with their parents or guardians. The system must be able to identify resources for runaway and homeless youth in the area in which the youth are located; provide pre-runaway prevention counseling and identify local resources to assist young people who are contemplating running away and who contact the communication system before they run; provide crisis intervention to clients, when appropriate, to address problems and/or issues surfaced during telephone contact; address reunification when feasible and provide access to transportation services for this purpose; allow families/guardians to leave messages or have conference calls with runaway youth and provide familes/guardians with advice and referrals to agencies which might assist them.

*Eligible Applicants:* Any State, unit of local government, combination of units of local government, public or private agency, organization, institution, or other non-profit entity is eligible to apply for these funds. Federally recognized Indian Tribes are eligible to apply. Non-Federally recognized Indian tribes and urban Indian organizations are also eligible to apply for grants as private, non-private agencies.

*Federal Share of Project Costs:* $1,000,000 per year. The maximum Federal share for a 5-year project period is $5,000,000.

*Applicant Share of Project Costs:* Applicants must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a five-year project costing $5,000,000 Federal funds (based on an award of $1,000,000 per 12-month budget period) must provide a match of at least $500,000 ($100,000 per budget period). Grantees will be held accountable for commitments of non-Federal resources even if over the amount of the required match. Failure to provide the amount will result in disallowance of Federal match.

*Duration of Project:* This announcement solicits applications for one new grant for a National Communication System for up to five years (60–month project period). The intital grant award, made on a competitive basis, will cover a one-year (12-month) budget period. Applications for continuation grants beyond the first budget period, but within the 60-month project period, will be considered in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory performance of the grantee and determination that continued funding would be in the best interest of the government.

*Project Summary/Abstract:* Applicant must provide a one page (or less) summary of the project description with reference to the funding request.

*Full Project Description:* Applicant must describe the project clearly in 40 pages or less based on the outline and guidelines provided in the full official program announcement.

*Part II. Uniform Project Description Requirements and Evaluation Criteria*

Note that each criterion is preceded by the ACF Uniform Project Description (UPD) generic project description requirement as approved by the Office of Management and Budget (OMB), Control Number 0970–0139, Expiration Date 12/31/2003. The UPD requirement is followed by the evaluation criteria specific to the Runaway and Homeless Youth program.

(a.) UPD Requirement for Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

*Evaluation Criterion for Objectives and Need for Assistance (15 point)*

1. Applicant must specify the goals and objectives of the project and how implementation will fulfill the purposes of the legislation identified above.

2. Applicant must discuss the need for assistance by describing the conditions of youth and families to be served, emphasizing the incidence and characteristics of runaway and homeless youth and their families nationwide. The discussion must address major issues and problems related to the use of youth hotline services by runaway youth, their families and youth serving agencies.

3. Applicant must provide descriptive information on the availability of information, referral, crisis intervention and youth hotline services to runaway

and homeless youth across the nation and how the applicant would coordinate with such agencies and organizations to help ensure that callers receive the assistance they need to avoid service duplication.

(b.) UPD Requirement for Results or Benefits Expected

Identify the results and benefits to be derived. For example, when applying for a grant to serve adolescents and their families, describe who will receive services, where and how these services will be provided, and how the services will benefit the youth, their families and the community.

*Evaluation Criterion for Results or Benefits Expected (20 points)*

1. Applicant must indicate the number of runaway and homeless youth callers and their families to be assisted annually through each component of the proposed services, e.g.: crisis intervention counseling, referrals, conference calling, message delivery services, etc.

2. Applicant must discuss the anticipated impact and benefit of these services upon runaway and homeless youth, their families and upon the existing network of national and local runaway and homeless youth service providers.

3. Applicant must discuss the anticipated results of proposed activities that promote awareness of the NCS among youth, service providers and the general community.

4. Applicant must describe the criteria to be used to evaluate the results and success of the project, including a description of the types of data that will be collected on callers and services provided.

(c.) UPD Requirement for Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by acitivity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any collection of information that is conducted or sponsored by ACF.

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

*Evaluation Criterion for Approach (35 points)*

1. Applicant must describe its youth development approach or philosophy and how it underlies and integrates all proposed activities, including provision of services to runaway and homeless youth and involvement of the youth's parents or legal guardians and/or youth service providers. Specific information must be provided on how youth will be involved in the design, operation and evaluation of the project.

2. Applicant must describe the approach and method that would be used to ensure that the NCS is a neutral and confidential telephone information, referral and crisis intervention service available to runaway and homeless youth and their families. Applicant must describe the procedures to be put in place to ensure that adequate telephone coverage is provided across the United States, that the communication system will be available 24 hours per day, seven days per week, and that paid qualified staff will supervise these operations.

3. Applicant must describe how it would establish and maintain service linkages with other youth-serving agencies, including other youth hotline services and how it would work with such agencies to deliver more effective services. This would include explaining the applicant's technical capacity to create and maintain a listing of resources for youth and its ability to facilitate communication among youth service providers.

4. Applicant must describe the approach for recruiting, training, supervising and using paid staff and volunteers who would receive calls and provide crisis intervention counseling.

5. Applicant must describe its plans for conducting outreach and public education activities throughout the United States to increase awareness and visibility of the NCS and its services.

6. Applicant must discuss potential approaches and plans for minimizing problems such as crank/obscene calls and busy signals.

7. Applicant must thoroughly describe the capabilities of the telephone and computer systems to be used to handle the calls from throughout the United States each year. Information such as the number of incoming and outgoing lines, conference call capabilities and service integration with computers must be described. Problems or issues that's related to these systems should also be addressed, as well as the time needed to get these systems up and running.

8. Applicant must identify the location of the place, from which services are to be provided and provide a plan of the physical facility, focusing on location of telephone stations, computer terminals and other equipment.

9. Applicant must describe general procedures for maintaining confidentiality of records on the youth and families served and specifically address the issue of confidentiality as it relates to the use of computer and communications technology. Procedures must strictly prohibit the disclosure or transfer of records containing the identity of individual youths to any person or to any public or private agency without the consent of the individual youth, parent or legal guardian. Disclosures without consent can be made to another agency compiling statistical records if individual identities are not provided or to a government agency involved in the disposition of criminal charges against an individual runaway or homeless youth.

10. Applicant must agree to cooperate with any research, data collection or evaluation efforts sponsored by the Administration for Children and Families.

11. Applicant must describe specific plans for accomplishing program phase-out during the last six months of the project period in the event the applicant does not receive a new Federal award.

(d.) UPD Requirement for Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

*Evaluation Criterion for Staff and Position Data (10 points)*

1. Applicant must include a description of current and proposed staff skills and knowledge regarding runaway and homeless youth and indicate how staff would be utilized in

achieving the goals and objectives of the program. Brief resumes of current and proposed staff, as well as position descriptions, should be included. Position descriptions must specifically describe the job as it relates to the proposed project.

2. Applicant must describe the staffing pattern that would be used to ensure that well-trained personnel would be assigned to each shift during the 24 hours per day, seven days per week operating period.

(e.) UPD Requirement for Organizational Profile

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information.

Any nonprofit organization submitting an application must submit proof of its nonprofit status in its application at the time of submission. The nonprofit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

*Evaluation Criteria for Organizational Profile (10 points)*

1. Applicant must discuss staff and organizational experience in working with runaway and homeless youth populations. As required by the RHY Act, priority for funding will be given to organizations with experience in providing national telephone hotline services to runaway and homeless youth in a manner that is in concert with the evaluation criteria for the NCS competitive grant program. Applicant must document the services it provides to this specific target population and the length of time that the applicant has been involved in the provision of these services.

2. Applicant must provide a short description of the applicant agency's organization, the experience of the organization with youth development, youth issues and youth and family services, and the role of any other offices or organizations that will be directly involved in this effort. Organizational charts may be provided.

(f.) UPD Requirement for Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

*Evaluation Criterion for Budget and Budget Justification (10 Points)*

1. Applicant must show that costs of the proposed project are reasonable and justified in terms of numbers of youth and families to be served, types and quantities of services to be provided and the anticipated results and benefits. Discussion should refer to the budget information presented on Standard Forms 424 and 424A and in the applicant's budget justification.

2. Applicant must describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement and accurate accounting of funds received under this program announcement.

3. Applicant must describe its plan for maximizing the non-Federal share through private sector resources that will enhance the overall program.

**Required Notification of the Single Point of Contact**

This program is covered under Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' The order was issued with the desire to foster the intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs and designate an entity to perform this function. The official list of those entities can be found at *http://www.whitehouse.gov/omb/grants/spoc.html* or by calling the ACYF Operations Center at 1–800–351–2293.

Applicants must submit any required material to the SPOCs as early as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must 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 date to comment on proposed new 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 they intend to trigger the ''accommodate or explain'' rule. When comments are submitted directly to ACYF, they must be addressed to: Department of Health and Human Services, Administration on Children, Youth and Families, Family and Youth Services Bureau, Room 2038, Mary Switzer Building, 330 C Street, SW., Washington, DC 20447, Attention: Dorothy Pittard.

Dated: September 17, 2001.

**James A. Harrell,**

*Acting Commissioner, Administration on Children, Youth and Families.*

[FR Doc. 01–23766 Filed 9–21–01; 8:45 am]

BILLING CODE 4184–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 01E–0029]**

### Determination of Regulatory Review Period for Purposes of Patent Extension; Trileptal

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Trileptal and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of

Commerce, for the extension of a patent that claims that human drug product.

**ADDRESSES:** Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov.dockets/ecomments.

**FOR FURTHER INFORMATION CONTACT:** Claudia Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration,5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Trileptal (oxcarbazepine). Trileptal is indicated for use as monotherapy or adjunctive therapy in the treatment of partial seizures in adults with epilepsy, and as adjunctive therapy in the treatment of partial seizures in children ages 4 through 16 with epilepsy. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Trileptal (U.S. Patent No. 4,559,174) from Novartis, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 11, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Trileptal represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Trileptal is 2,523 days. Of this time, 2,046 days occurred during the testing phase of the regulatory review period, while 477 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: February 18, 1993. The applicant claims February 4, 1992, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was February 18, 1993, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: September 25, 1998. FDA has verified the applicant's claim that the new drug application (NDA) for Trileptal (NDA 21–014) was initially submitted on September 25, 1998.

3. *The date the application was approved*: January 14, 2000. FDA has verified the applicant's claim that NDA 21–014 was approved on January 14, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,690 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written or electronic comments and ask for a redetermination, by November 23, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period, by March, 24, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

**Jane A. Axelrad,**

*Associate Director for Policy, Center for Drug Evaluation and Research.*

[FR Doc. 01–23750 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Current Good Manufacturing Practice for Active Pharmaceutical Ingredients; Public Workshops

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public workshops.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a series of workshops to discuss the application of the International Conference on Harmonisation (ICH) guidance for industry entitled ''Q7A Good Manufacturing Practice Guidance for Active Pharmaceutical Ingredients,'' which will be announced in a future issue of the **Federal Register**. The workshops, which will be held in collaboration with the Parenteral Drug Association, the Pharmaceutical Research and Manufacturers of America, and the Generic Pharmaceutical Association, are intended to provide a regulatory perspective on current good manufacturing practices (CGMPs) for active pharmaceutical ingredients (APIs). The workshops are being scheduled to help ensure that all APIs meet the standards for quality and purity they purport or are represented to possess.

**DATES:** See table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** See table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Erik N. Henrikson, Center for Drug

Evaluation and Research (HFD–320), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301–827–0072, FAX 301–594–2202;

Leslie Zeck, Parenteral Drug Association, 7500 Old Georgetown Rd., suite 620, Bethesda, MD 20814, 301–986–0293, FAX 301–986–0296, e-mail: http://www.pda.org;

Alice E. Till, Pharmaceutical Research and Manufacturers of America, 1100 15th St. NW., Washington, DC 20005, 202–835–3400, FAX 202–835–3597, e-mail: http://www.phrma.org; or

Steve Bende, Generic Pharmaceutical Association, 1620 I St. NW., suite 800, Washington, DC 20006, 202–833–9070, FAX 202–833–9612, e-mail: http://www.genericaccess.com.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Who Should Attend?*

This announcement is directed towards professionals involved in the manufacture, control, and regulation of APIs who will benefit from this training, including: Process/production engineers, quality assurance/quality control and regulatory affairs professionals, auditors, agents, brokers, traders, distributors, repackers and relabelers of APIs, consultants, regulatory investigators and GMP compliance officials, and reviewing chemists. Other entities or individuals may also be interested in attending.

### *B. Where and When Will These Workshops Be Held?*

TABLE 1.—WORKSHOP LOCATIONS AND DATES

| Workshop Address | Date and Local Time |
|---|---|
| Illinois: The Allerton Crowne Plaza, 701 North Michigan Ave., Chicago, IL | October 22 to 24, 2001, from 9 a.m. to 5 p.m. |
| New Jersey: Hyatt Regency Princeton, 102 Carnegie Center, Princeton, NJ | November 7 to 9, 2001, from 9 a.m. to 5 p.m. |
| California: The Sutton Place Hotel, 4500 MacArthur Blvd., Newport Beach, CA | February 25 to 27, 2002, from 9 a.m. to 5 p.m. |
| Puerto Rico: Caribe Hilton San Juan, Los Rosales St., San Geronimo Ground,San Juan, PR | April 8 to 10, 2002, from 9 a.m. to 5 p.m. |

### *C. How Can I Participate?*

You can participate in person. Anyone interested in the API workshops can register through any of the information contacts (addresses above).

### *D. Is There a Registration Fee for This Workshop?*

Yes, a registration fee of $995 is required for this workshop. This registration fee includes workshop reference materials, lunch on each day, and a networking reception on day 1. Government employees qualify for a discounted rate of $395.

### *E. How Can I Get Additional Information, Including Copies of This Document or Other Related Documents?*

Submit written requests for single copies of the Q7A guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist the office in processing your requests. Once the notice of availability is announced in a future issue of the **Federal Register**, those with electronic access will be able to obtain electronic copies of the guidance document on the Internet at three locations: http://www.fda.gov/cder/guidance/index.htm; http://www.emea.eu.int/pdfs/human/ich/410600en.pdf; or http://www.ifpma.org/ich5q.html#gmp. The notice of participation form, information about the workshops, and other related documents are available from any of the information contacts (addresses above) or from the Internet at http://www.fda.gov/cder/calendar.

## II. Background Information

### *A. Why is FDA Cosponsoring These Workshops?*

FDA is cosponsoring these 3-day workshops to provide training of FDA personnel alongside industry participants on the ICH Q7A CGMP guidance for APIs. This is the first CGMP guidance developed jointly by regulators and industry and is intended for use worldwide. It affects manufacturers who manufacturer in, or intend to supply into, the ICH regions (United States, Europe, Japan).

### *B. What Will Be Covered?*

FDA participation in these workshops will provide a regulatory perspective on the critical topic of the ICH guidance ''Q7A Good Manufacturing Practice Guidance for Active Pharmaceutical Ingredients.'' Attendees will hear about the intent of the Expert Working Group that developed the Q7A guidance and learn how to interpret and apply the Q7A guidance, including special sections on APIs manufactured by cell culture/fermentation, and APIs for use in clinical trials.

Dated: September 18, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–23804 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee*: Cardiovascular and Renal Drugs Advisory Committee.

*General Function of the Committee*: To provide advice and recommendations to the agency on FDA's regulatory issues.

*Date and Time*: The meeting will be held on October 11, 2001, from 9 a.m. to 5 p.m.

*Location*: National Institutes of Health, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD.

*Contact*: Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), Food and Drug Administration, Woodmont II Bldg., 1451 Rockville Pike, Rockville, MD 20752, 419–259–6211, or John Treacy or Jayne E. Peterson , 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12533. Please call the Information Line for up-to-date information on this meeting.

*Agenda*: The committee will discuss new drug applications (NDA) 20–665

(capsules) and NDA 21–283 (tablets) Diovan® (valsartan), Novartis Pharmaceuticals Corp., for the treatment of patients with heart failure.

*Procedure*: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 5, 2001. Oral presentations from the public will be scheduled between approximately 9 a.m. and 10 a.m. on October 11, 2001. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 5, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 18, 2001.

**Linda A. Suydam,**

*Senior Associate Commissioner.*

[FR Doc. 01–23749 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 01N–0397]**

### Transportation Safety and Potentially Sedating or Impairing Medications; Public Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a public meeting to gather data on the potential public health consequences related to sedating or impairing medications. This meeting will be jointly sponsored with the National Transportation Safety Board (NTSB). The meeting will be held to determine what data are available to define the role of sedating or impairing medications in accidents and related injuries, how the potential for medications to cause impairment might be best assessed, and how this risk would be most effectively communicated to the public.

**DATES:** The meeting will be held on November 14, 2001, from 8 a.m. to 5 p.m. and November 15, 2001, from 8 a.m. to 4 p.m. Persons desiring to make oral presentations during the meeting must register by October 17, 2001. Submit written or electronic comments by December 17, 2001.

**ADDRESSES:** The public meeting will be held at the National Transportation Safety Board (NTSB) Board Room, 429 L'Enfant Plaza, SW., Washington, DC 20594. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

*Registration*: Submit registration information by close of business on October 17, 2001, electronically at http://www.accessdata.fda.gov/scripts/oc/dockets/meetings/meetingdocket.cfm. Once on this Internet site, select Docket No. 01N–0397 and follow the directions. Submit registration information by mail to Dockets Management Branch (address above).

**FOR FURTHER INFORMATION CONTACT:** Lee Lemley or Anne M Food and Drug Administration,. Henig, Center for Drug Evaluation and Research (HFD–006), Food and Drug Administration, 5600 Fishers Lane Rockville, MD 20857, 301–594–6779, e-mail: lemleyl@cder.fda.gov or heniga@cder.fda.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Background Information

*Why is FDA/NTSB holding this meeting?*

FDA/NTSB is holding this joint meeting in response to NTSB Safety Recommendation I–00–5, requesting that FDA (1) Establish a clear, consistent, easily recognizable warning label for all prescription and over-the-counter medications that may interfere with an individual's ability to operate a vehicle and (2) require that the label be prominently displayed on all packaging of such medications.

*On what issues does FDA seek comment?*

- What data are available to show that sedating or impairing medications contribute to accidents?
- If data are available, can the public health impact of any such effect be delineated? What type of testing would best define the potential for a medication to contribute to accidents? Are there validated test methods for assessing the degree of risk associated with the use of medications that are sedating or impairing?
- What would be the most effective manner of communicating the risk of performance impairment (e.g., labeling, pictogram, educational programs, or other manner of communication)?
- What is the experience of other institutions (local, national, and international; public and private) in assessing, communicating, and preventing the risk of sedating or impairing medications in vehicle operators? How are currently applicable laws and regulations enforced?

### II. Registration and Requests to Make Oral Presentations

If you would like to make an oral presentation during the meeting, you must register by close of business on October 17, 2001, either electronically or by mail (information above). There is no registration fee, but you must register. You must provide your name, title, business affiliation (if applicable), address, telephone number, fax number, e-mail address, and the type of organization you represent (e.g., industry, consumer organization). Registered persons should check in before the meeting. Persons requiring a sign language interpreter or other special accommodations should notify Lee Lemley or Anne M. Henig at 301–594–6779 by October 31, 2001.

If you are making an oral presentation during the meeting, you must indicate this on your registration form and submit: (1) A brief written statement of the general nature of the views you wish to present and (2) the names and addresses of all persons who will participate in the presentation.

Depending on the number of people who register to make presentations, we will limit the time allotted for each presentation (from 3 to 5 minutes). It is anticipated that, during the meeting, persons attending the meeting will have the opportunity to ask questions through question cards that will be handed out.

### III. Comments

Interested persons may submit to the Dockets Management Branch (addresses above) written or electronic comments regarding the topics addressed at the public meeting by December 17, 2001. Two copies of any written comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

### IV. Transcripts

You may access a copy of the transcript on the FDA Internet site at http://www.fda.gov, request a transcript of the meeting from the Freedom of Information Office (HFI–35), Food and

Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 20 working days after the meeting, at a cost of 10 cents per page, or examine a transcript of the meeting after December 17, 2001, at the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 18, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–23805 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00D–1538]**

### Draft Guidance for Industry; Electronic Records; Electronic Signatures, Validation; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Validation.'' The draft guidance describes the agency's current thinking on issues pertaining to validating computer systems subject to part 11 (21 CFR part 11) requirements, to ensure that electronic records and electronic signatures are trustworthy, reliable, and compatible with FDA's public health responsibilities. Such validation is a requirement of part 11 of title 21 of the Code of Federal Regulations.

**DATES:** Submit written or electronic comments on the draft guidance by Decmeber 24, 2001. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Division of Compliance Information and Quality Assurance (HFC–240), Office of Enforcement, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, room 1060, Rockville, MD 20852. Submit electronic comments to *http://www.FDA.gov/dockets/ecomments.* See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Motise, Office of Enforcement (HFC–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0383, e-mail: *pmotise@ora.fda.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

FDA is announcing the availability of a draft guidance entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Validation.'' In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published a regulation providing criteria under which the agency considers electronic records and electronic signatures to be trustworthy, reliable, and generally equivalent to paper records and handwritten signatures executed on paper (''part 11''). The preamble to part 11 stated that the agency anticipated issuing supplemental guidance documents and would afford all interested parties the opportunity to comment on draft guidance documents. Therefore, FDA is making this draft guidance available for public comment.

The draft guidance addresses issues pertaining to the validation of computer systems used to create, modify, maintain, archive, retrieve, or transmit electronic records and electronic signatures subject to part 11. Part 11 requires such validation, and the guidance is intended to assist people who must meet this requirement; it may also assist FDA staff who apply part 11 to persons subject to the regulation.

The draft guidance provides specific information on key validation principles, and it addresses some frequently asked questions. However, it is not intended to cover everything that computer systems validation should encompass in the context of electronic record/signature systems. In addition to addressing key validation principles, the draft document discusses considerations regarding off the shelf software and the Internet.

By direct reference, this draft guidance incorporates definitions of terms contained in a companion draft guidance, ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Glossary of Terms.'' Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of that companion draft document, and is offering the opportunity to comment on it, as well.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance, when finalized, will represent the agency's current thinking on validating computerized systems subject to part 11. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

### II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

### III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ora/compliance_ref/Part11.*

Dated: August 23, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–23698 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00N–1543]**

### Draft Guidance for Industry; Electronic Records; Electronic Signatures, Glossary of Terms; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Glossary of Terms.'' The draft guidance defines terms that will be used in FDA's guidances that describe the agency's current thinking on principles and procedures for creating, modifying, maintaining, archiving, retrieving, and transmitting electronic records and electronic signatures in order to ensure that electronic records

and electronic signatures are trustworthy, reliable, and compatible with FDA's public health responsibilities.

**DATES:** Submit written or electronic comments on the draft guidance by December 24, 2001. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written requests for single copies of the draft guidance entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Glossary of Terms'' to the Division of Compliance Information and Quality Assurance (HFC–240), Office of Enforcement, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Motise, Office of Enforcement (HFC–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0383, e-mail: *pmotise@ora.fda.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Glossary of Terms.'' In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published a regulation providing criteria under which the agency considers electronic records and electronic signatures to be trustworthy, reliable, and generally equivalent to paper records and handwritten signatures executed on paper (''part 11'' (21 CFR part 11)). The preamble to part 11 stated that the agency anticipated issuing supplemental guidance documents and would afford all interested parties the opportunity to comment on draft guidance documents. Therefore, FDA is making this draft guidance available for public comment.

The draft guidance defines terms that will be used in other FDA guidance documents about part 11. FDA believes that rather than repeat definitions in multiple guidances it would be more efficient to consolidate them in one common document. The glossary of terms is intended to assist people who must meet part 11 requirements; it may also assist FDA staff who apply part 11 to persons subject to the regulation.

Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a companion draft document entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Validation'' and is offering the opportunity to comment on it, as well. By direct reference, the companion draft document incorporates definitions contained in the draft glossary of terms.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance, when finalized, will represent the agency's current thinking on terms and their definitions as used in guidance documents about electronic records and electronic signatures in the context of part 11. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

## II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

## III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ora/compliance_ref/Part11.*

Dated: August 23, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–23699 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

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# DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Notice of Intent To Prepare a Comprehensive Conservation Plan

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; extension of comment period.

**SUMMARY:** We are extending the period for the submission of comments on two documents related to the Sacramento River National Wildlife Refuge. This action will provide the public with additional time to participate in the planning process of developing these documents.

**DATES:** Comments must be received by October 19, 2001.

**ADDRESSES:** Send written comments to the following address: Planning Team Leader—Sacramento River NWR, California/Nevada Refuge Planning Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, W–1916, Sacramento, California, 95825. Written comments may also be sent by facsimile to (916) 414–6512.

**FOR FURTHER INFORMATION CONTACT:** Mr. Miki Fujitsubo, Planning Team Leader, (916) 414–6507.

**SUPPLEMENTARY INFORMATION:** We published a notice in June 11, 2001, **Federal Register** (66 FR 31247) announcing that the Service is preparing a Comprehensive Conservation Plan (CCP) and National Environmental Policy Act document for the Sacramento River National Wildlife Refuge. The Refuge is located in Butte, Glenn, and Tehama Counties, California. As discussed in the notice, we are preparing the CCP to comply with the National Wildlife Refuge System Administration Act of 1966. The notice stated that comments should be received by July 11, 2001. We have decided to allow the public additional time to submit comments and have extended the public comment period to October 19, 2001.

**Authority:** The authority for this action is Notice of Intent (66 FR 31247).

Dated: September 17, 2001.

**Daniel S. Walsworth,**

*Acting Manager, California/Nevada Operations Office, Region 1, U.S. Fish and Wildlife Service.*

[FR Doc. 01–23724 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–55–P

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# DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[UTU–78576]**

## Recreation and Public Purposes, Classification and Termination; UT

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** On October 4, 2000, 80 acres of public land were classified and segregated for Recreation and Public Purposes (R&PP) purposes (UTU–78576). Subsequently it was determined that a fifty acre portion of this classification contained resource values which should remain in public ownership. Therefore, the classification on these fifty acres of public land in Garfield County is being terminated. In place of this 50 acre parcel, an additional thirty acres which have been determined to not contain these values are hereby classified for disposal under the Recreation and Public Purposes Amendment Act of 1988 (Pub. L. 100–648).

**FOR FURTHER INFORMATION CONTACT:** Frank Olsen, 318 North 100 East, Kanab, UT 84741.

**SUPPLEMENTARY INFORMATION:** Classification Termination: The description of the land on which the classification is terminated is: Salt Lake Meridian, Utah, T. 35 South, R. 5 West, Section 5, SW¼SE¼SW¼; Section 9, N½NE¼NW¼; N½NW¼NW¼, containing 50 acres more or less.

Effective September 24, 2001 the Recreation and Public Purposes classification for the parcel of land described above, is hereby terminated. At 8 a.m. September 24, 2001, the land described above will be opened to the operation of the public land laws generally, including location and entry under the United States mining laws, subject to valid existing rights, other segregations of record, and the requirements of applicable law.

*New Classification:* The following public land in Garfield County, Utah has been examined and found suitable for classification for conveyance under the provisions of the R&PP Amendment Act of 1988 (Pub. L. 100–648): Salt Lake Meridian, Utah, T. 35 South, R. 5 West, Section 8, N½NW¼NE¼, NE¼NE¼NW¼, containing 30 acres. Garfield County intends to use the land in conjunction with the adjacent land previously classified under this Act for a public shooting range. The land is not needed for a Federal purpose. Conveyance is consistent with current Bureau of Land Management land use planning and would be in the public interest. The land is hereby segregated from appropriation under any other public land law, including locations under the mining laws.

**DATES:** On or before November 8, 2001, interested parties may submit comments regarding the proposed classification. In the absence of adverse comments, the classification will become effective November 23, 2001.

**Rex Smart,**

*Acting Field Office Manager.*

[FR Doc. 01–23734 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–$$–P

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## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[CA–680–01–ES–4130; CACA 41804]**

## California Desert District, Notice of Realty Action, Public Use Classification; Classification of Public Lands for Recreation and Public Purposes, Serial Number Caca 41804, San Bernardino County, CA

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action CACA 41804, Classification of Public Land as Suitable for Lease/Conveyance for Recreation and Public Purposes.

**SUMMARY:** The following described public land in San Bernardino County, California has been examined and found suitable for classification for lease or conveyance to the San Bernardino County Consolidated Fire District, County Service Area (CSA) 70 under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*):

**San Bernardino Meridian, California**

T. 14N., R. 9E.

Sec. 30, W½NW¼SE¼NE¼;

Containing 5.00 acres.

The San Bernardino County Consolidated Fire District, CSA 70, a County government agency governed by the San Bernardino County Board of Supervisors, has filed an application to lease with the option for conveyance of the above described public land. The San Bernardino County Consolidated Fire District proposes to use the land for establishment of a fire station facility. The public land will be leased during the development stages. Upon substantial compliance with approved plans of development and management, the land will be conveyed.

The land is not needed for Federal purposes. Lease or conveyance under the Recreation and Public Purposes Act is in the public interest and consistent with the California Desert Conservation Area Plan, as amended. The land is located approximately 65 miles northeast of Barstow, CA, in the small unincorporated community of Baker, CA, which is situated adjacent to Interstate 15. The site is physically suitable for the proposed use.

The terms and conditions applicable to a lease conveyance are:

A. Reservations to the United States.

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. The United States will reserve all mineral deposits in the land together with the right to prospect for, mine and remove such mineral deposits under applicable laws.

B. The public land will be leased or conveyed subject to the following:

1. Those rights for construction, operation and maintenance of the 100 foot wide telegraph and telephone line granted to Pacific Telephone and Telegraph Company (now Pacific Bell), its successors or assigns, by right-of-way Serial No. CALA 0153023, pursuant to the Act of March 4, 1911, as amended (36 Stat. 1253; 43 U.S.C. 961).

Upon publication of this notice in the **Federal Register**, the public land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice, interested persons may submit comments, regarding the proposed lease/conveyance of the lands, to the Field Manager, Barstow Field Office, 2601 Barstow Road, Barstow, CA 92311, (760) 252–6023. Any adverse comments will be reviewed by the District Manager, California Desert District. In the absence of any adverse comments, this classification will become effective 60 days from the date of publication of this notice.

Dated: August 20, 2001.

**Timothy Read,**

*Barstow Field Office Manager.*

[FR Doc. 01–23737 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–40–P

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## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[MT–929–01–1420–BJ]**

## Montana: Filing of Plat of Survey

**AGENCY:** Bureau of Land Management, Montana State Office, Interior.

**ACTION:** Notice.

**SUMMARY:** The plat of the following described land is scheduled to be

officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

**Principal Meridian, Montana**

T. 18 N., Rs. 56 and 57 E.

The plat, representing the dependent resurvey of portions of the 14th Auxiliary Meridian East, through Township 18 North, the subdivisional lines and the adjusted original meanders of the left bank of the Yellowstone River, downstream, through sections 25 and 30, the survey of a medial line of two relicted channels, a certain partition line and certain meanders of the present left bank of the Yellowstone River, in Township 18 North, Ranges 56 and 57 East, of the Principal Meridian, in the State of Montana, was accepted July 27, 2001.

The survey was requested by the Miles City Field Office and was necessary to identify accretions and delineate federal interest lands in sections 25 and 30 of the subject townships.

A copy of the preceding described plat will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this survey, as shown on this plat, is received prior to the date of the official filings, the filings will be stayed pending consideration of the protests.

This particular plat will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800.

Dated: August 3, 2001.

**Steven G. Schey,**

*Chief Cadastral Surveyor, Division of Resources.*

[FR Doc. 01–23738 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–DN–P

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[OR–957–00–1420–BJ: GP01–0301]**

## Filing of Plats of Survey: Oregon/Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, October 24, 2001.

**Willamette Meridian**

Oregon

T. 7 S., R. 7 W., accepted June 28, 2001
T. 10 S., R. 2 E., accepted July 9, 2001
T. 31 S., R. 6 W., accepted July 9, 2001
T. 9 S., R. 2 E., accepted July 9, 2001
T. 14 S., R. 1 W., accepted August 3, 2001

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plats(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey, and subdivision.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, (1515 S.W. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: August 21, 2001.

**Robert D. DeViney, Jr.,**

*Branch of Realty and Records Services.*

[FR Doc. 01–23733 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–33–P

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[MTM 91063]**

## Notice of Proposed Withdrawal and Opportunity for Public Meeting; Montana

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service, has filed an application to withdraw approximately 2,173 acres of National Forest System lands to protect the lands during completion of reclamation activities. This notice closes the lands for up to 2 years from location and entry under the United States mining laws. The lands will remain open to all activities currently consistent with applicable Forest plans and those related to exercise of valid existing rights.

**DATES:** Comments and requests for a public meeting must be received by December 24, 2001.

**ADDRESSES:** Comments and meeting requests should be sent to the Forest Supervisor, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, Montana 59725–3572.

**FOR FURTHER INFORMATION CONTACT:** Dan Avery, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, Montana 59725–3572, 406–494–0269.

**SUPPLEMENTARY INFORMATION:** On July 17, 2001, the Forest Service filed an application to withdraw the following-described National Forest System lands from location and entry under the United States mining laws, but not the mineral leasing laws, subject to valid existing rights:

**Principal Meridian, Montana**

Beaverhead-Deerlodge National Forest

Basin Creek Mine (approximately 1,456 acres)—

T. 8 N., R. 5 W.,
Sec. 19, lots 7, 10, 12, and 15;
Sec. 30, lots 7 and 17.
T. 8 N., R. 6 W.,
Sec. 24, lot 11;
Sec. 25, lots 1 to 7, inclusive;
Sec. 26, lots 4, 5, and 7, SE¼SW¼, and SW¼SE¼;
Sec. 35, lots 1, 4, 5, and 6;
Sec. 36, lots 3 and 4.

Beal Mountain Mine (716.59 acres)—

T. 2 N., R. 10 W.,
Sec. 5, N½NE¼ and W½, excluding Patent Nos. 532788, 4955, 562258, and 535541;
Sec. 6, E½, E½NW¼, and NE¼SW¼, excluding Patent Nos. 433087, 535541, 562258, and 881285.
T. 3 N., R. 10 W.,
Sec. 31, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 32, W½NE¼, W½, and SE¼, excluding Patent No. 532788.

The areas described aggregate approximately 2,173 acres in Silver Bow, Jefferson, Powell, and Lewis and Clark Counties, Montana.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor, Beaverhead-

Deerlodge National Forest, at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Forest Supervisor at the address indicated above within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include all activities currently consistent with applicable Forest plans and those related to exercise of valid existing rights.

Dated: July 31, 2001.

**Thomas P. Lonnie,**

*Deputy State Director, Division of Resources.*

[FR Doc. 01–23736 Filed 9–21–01; 8:45 am]

BILLING CODE 3410–11–P

## DEPARTMENT OF JUSTICE

**[AAG/A Order No. 245–2001]**

## Privacy Act of 1974; System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, proposes to modify the following system of records-previously published December 16, 1999 (64 FR 70290):

### Worksite Enforcement Records, JUSTICE/INS–025

INS proposes: (1) To revise the title of the system to accurately convey the records within the system; (2) to reflect that the system is now located in all district offices and sub-offices instead of just specific field offices; (3) to add an additional category of individuals covered by the system; (4) to clarify records within the system; (5) revise the ''Purpose'' to emphasize the inspection function of the system; (6) add two routine use disclosures (J and K); (7) modify the ''Retention and Disposal'' section to include a disposition for verification records; and (8) to make minor changes and edits.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment on the modifications to the system and the new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities review of the system. Therefore, please submit any comments by (30 days from the publication date of this notice). The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1400, National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: September 18, 2001.

**Janis A. Sposato,**

*Acting Assistant Attorney General for Administration.*

### Justice/INS–025

**SYSTEM NAME:**

Worksite Enforcement Records.

**SYSTEM LOCATION:**

Immigration and Naturalization Service (INS) Headquarters, Regional, district, and sub-offices as detailed in Justice/INS–999, last published April 13, 1999 (64 FR18052). Currently, only the district and sub-offices maintain the hard copy case files for this system. Automated indices are maintained at INS Headquarters, regional and district offices, and sub-offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The records maintained in this system of records concern the following:

(a) Individuals who are or have been the subject of inquiries or investigations conducted by the INS related to the enforcement of the employment control provisions of the Immigration and Nationality Act (INA) and related criminal statutes. The records primarily involve those individuals who are being investigated or have been investigated to determine whether their employment-related activities (e.g., hiring, recruiting, and/or referring for a fee) are in violation of the employment control provisions of the INA and/or related criminal statutes. These records also include individuals who employ others in their individual capacity whether related to a business activity or not; (b) individuals who are witnesses, complainants, and parties who have been identified by the INS or by other government agencies or parties to an investigation related to worksite enforcement activities; and (c) individuals who have submitted completed Form I–9 (Employment Eligibility Verification Form) and other documentation to establish identity and work eligibility/authorization under the employment control provisions of the INA. In addition, the system will include information necessary to verify the information attested to on I–9 forms.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information relating to investigative actions including: letters; memoranda; reports of investigations with related exhibits, statements, affidavits, or records obtained during investigations (i.e., including employment verification records); prior criminal or non-criminal records of individuals as they relate to the investigations; reports to or from other law enforcement bodies; information obtained from informants; information on the nature of allegations made against suspects and identifying data concerning such suspects; and related documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

* * * * *

**PURPOSE(S):**

The purpose of the system(s) is to enable the INS to meet its obligations and responsibilities in administering and enforcing the employment control provisions of the INA and related criminal statutes. Records in this system are used in the course of INS investigations of entities or individuals (e.g., employers, employees, independent contractors, sub-contractors) suspected of having committee illegal acts and in the course of conducting related civil proceedings, criminal prosecutions, or administrative actions. The records are also used to facilitate INS' inspection authority to monitor and evaluate the information contained on all I–9 forms under inspection, regardless of whether suspicion of wrongdoing exists on the part of the person who executed the Form I–9. Finally, records are also maintained for statistical purposes.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USE:**

* * * * *

C. To the General Services Administration (GSA) and National Archives and Records Administration (NARA) in records management

inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

* * * * *

J. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

K. Pursuant to subsection (b)(3) of the Privacy Act, the Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: Responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

* * * * *

**RETENTION AND DISPOSAL:**

Records concerning fines and/or prosecutions are retained for up to 25 years after the case is closed and then destroyed. Administrative cases involving compliance and warning notices are retained for up to seven years and then destroyed. Lastly, records involving a verification of information only are retained for up to three years and then are destroyed. This additional retention disposition is pending approval by NARA.

* * * * *

[FR Doc. 01–23726 Filed 9–21–01; 8:45 am]

BILLING CODE 4410–10–M

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-day notice of information collection under review: Extension of a currently approved collection. Prison Population Reports Midyear Counts; and Prison Population Report Advance Year-end Counts—National Prisoner Statistics.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics (OJP/BJS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (Volume 66, Number 106, Pages 29836–29837) on June 1, 2001, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 24, 2001. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated pubic burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimizes the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of this Information Collection**

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the Form/Collection: Prison Population Reports Midyear Counts; and Prison Population Report Advance Year-end Counts—National Prisoner Statistics.

(3) The agency form number and the applicable component of the Department sponsoring the collection. Form: NPS–1A; And NPS–1B. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked to respond, as well as a brief abstract: Primary: State Departments of Corrections. Others: The Federal Bureau of Prisons. For the NPS–1A form, 52 central reports (one from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories: (a) As of June 30, the number of male and female inmates under their jurisdiction with maximum sentences of more than one year, one year or less; and unsentenced inmates; and (b) As of June 30, the number of male and female inmates in their custody with maximum sentences of more than one year, or year or less; and unsentenced inmates; and (c) As of June 30, the number of male and female inmates under their jurisdiction housed in privately-operated facility, either in state or out of state; and (d) As of June 30, number of male and female inmates in their custody by race and Hispanic origin.

For the NPS–1B form, 52 central reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories: (a) As of December 31, the number of male and female inmates under their jurisdiction with maximum sentences or more than one year, one year or less; and unsentenced inmates; and (b) The number of inmates housed in county or other local authority correctional facilities, or in other state or Federal facilities on December 31, solely to ease prison crowding; and (c) As of the direct result of state prison crowding during 2001, the number of inmates released via court order, administrative procedure or statute, accelerated release, sentence reduction, emergency release, or other expedited release; and (d) The aggregate rated, operational, and design capacities, by sex, of each State's correctional facilities at year-end.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and other interested in criminal justice statistics.

(5) An estimate of the total number of respondents and the amount of time needed for an average respondent to

respond: 52 respondents each taking an average 3.0 hours to respond.

(6) An estimate of the total public burden (in hours) associated with the collection: 156 annual burden hours.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street, NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20004.

Dated: September 18, 2001.

**Brenda E. Dyer,**

*Department Deputy Clearance Officer, United States Department of Justice.*

[FR Doc. 01–23719 Filed 9–21–01; 8:45 am]

BILLING CODE 4410–18–M

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Advisory Committee on Preservation; Meeting

**AGENCY:** National Archives and Records Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2) and implementing regulation 41 CFR 101–6, the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on Preservation. NARA uses the Committee's recommendations on NARA's implementation of strategies for preserving the permanently valuable records of the Federal Government.

**DATES:** November 8, 2001, from 10 a.m. to 5 p.m. and November 9, 2001, from 9 a.m. to noon.

**ADDRESSES:** National Archives and Records Administration, 8601 Adelphi Road, lecture rooms B & C, College Park, MD 20740–6001.

**FOR FURTHER INFORMATION CONTACT:** Alan Calmes, Preservation Archivist, 301–713–7403.

**SUPPLEMENTARY INFORMATION:**

1. The agenda for this meeting is a review of the NARA preservation program.

2. Discussion of the application of state-of-the-art technology for the preservation of paper, film, audio, and video Federal records.

This meeting will be open to the public, but seating may be limited.

Dated: September 17, 2001.

**Mary Ann Hadyka,**

*Committee Management Officer.*

[FR Doc. 01–23711 Filed 9–21–01; 8:45 am]

BILLING CODE 7515–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–277 and 50–278]**

### Exelon Generation Company, LLC, PSEG Nuclear, LLC, Atlantic City Electric Company; Peach Bottom Atomic Power Station, Units 2 and 3; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

Exelon Generation Company, LLC (Exelon) has submitted an application for renewal of Operating Licenses Nos. DRP–44 and DRP–56 for an additional 20 years of operation at the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3. PBAPS is located partly in York County and partly in Lancaster County, Pennsylvania. The application for renewal was submitted by letter dated July 2, 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 25, 2001 (66 FR 38753). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on August 31, 2001 (66 FR 46036). 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), Exelon 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 One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records component of NRC's document system (ADAMS). ADAMS is accessible at *http://www.nrc.gov/NRC/ADAMS/index.html,* (the NRC Public Electronic Reading Room (PERR)). 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 301–415–4737, or by e-mail to *pdr@nrc.gov.* In addition, the Whiteford Branch Library, located at 2407 Whiteford Road, Whiteford, MD and the Collinsville Community Library, located at 2632 Delta Road, Brogue, PA, have each been provided a reference copy of the ER and have agreed to make it 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 PBAPS operating licenses for 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, Exelon Generation Company, LLC.

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.

a. Any person who intends to petition for leave to intervene.

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 PBAPS license renewal supplement to the GEIS. The scoping meetings will be held at the Peach Bottom Inn, 6085 Delta Road, Delta, PA on Wednesday, November 7, 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 p.m. with a repeat of the overview portions of the meeting and will continue until 10 p.m. Both sessions 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 Exelon of the proposed action, PBAPS 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 Peach Bottom Inn. No comments on the proposed scope of the supplement to the GEIS 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 meetings on the NEPA scoping process by contacting Mr. Duke Wheeler by telephone at (800) 368–5642, extension 1444, or by Internet to the NRC at *dxw@nrc.gov* no later than November 1, 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. Wheeler's attention no later than November 1, 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 26, 2001. Electronic comments may be sent by the Internet to the NRC at *Peach_Bottom_EIS@nrc.gov.* Electronic submissions should be sent no later than November 26, 2001, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's Public Electronic Reading Room link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

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.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determinations 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. Wheeler at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 17th day of September 2001.

For the Nuclear Regulatory Commission.

**Cynthia A. Carpenter,**

*Chief, Risk Informed Initiatives, Environmental, Decommissioning and Rulemaking Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 01–23789 Filed 9–21–01; 8:45 am]

BILLING CODE 7590–01–P

## POSTAL RATE COMMISSION

### Sunshine Act Meetings

**NAME OF AGENCY:** Postal Rate Commission.

**TIME AND DATE:** 10:30 a.m., September 17, 2001.

**PLACE:** 1333 H Steet NW., Suite 300, Washington, DC 20268–0001.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Personnel issues.

**CONTACT PERSON FOR MORE INFORMATION:** Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street NW., Washington, DC, 202–789–7820.

Dated: September 19, 2001.

**Steven W. Williams,**

*Acting Secretary.*

[FR Doc. 01–23916 Filed 9–20–01; 2:07 pm]

BILLING CODE 7710–FW–M

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 25161; 812–12586]**

### The Victory Portfolios, et al.; Notice of Application

September 19, 2001.

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

**ACTION:** Notice of application under section 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act.

*Summary of Application:* Applicants request an order to permit the proposed reorganization of the following series of the Victory Portfolios: U.S. Government Obligations Fund (''U.S. Government'') with and into Gradison Government Reserves Fund (''Gradison''); and Investment Quality Bond Fund (''Investment Quality'') with and into Intermediate Income Fund (''Intermediate Income''). Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

*Applicants:* The Victory Portfolios (''Trust'') and Victory Capital Management Inc. (''Adviser'').

*Filing Dates:* The application was filed on July 24, 2001. Applicant have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 10, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants c/o S. Elliot Cohan, Esq., Kramer Levin Naftalis & Frankel LLP, 919 Third Avenue, New York, New York 10022.

**FOR FURTHER INFORMATION CONTACT:** John L. Sullivan, Senior Counsel, at (202) 942–0681, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

## Applicant's Representations

1. The Trust, a Delaware business trust, is registered under the Act as an open-end management investment company and currently offers 30 series, including Gradison, U.S. Government, Intermediate Government, and Investment Quality (each, a ''Fund.''). The Adviser, a New York corporation and wholly owned subsidiary of KeyCorp, is registered under the Investment Advisers Act of 1940 and is the investment adviser to the Funds. Each of McDonald & Co. Securities, Inc. and SNBOC and Company, each a wholly owned subsidiary of KeyCorp, owns of records, and may under certain circumstances have the power to vote, more than 5% of the outstanding voting securities of each Fund.

2. On May 23, 2001, the board of trustees of the Funds (''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), approved two separate Agreements and Plans of Reorganization and Termination (each, a ''Plan''), under which U.S. Government will reorganize into Gradison, and Investment Quality will reorganize into Intermediate Income (Gradison and Intermediate Income are ''Acquiring Funds,'' and U.S. Government and Investment Quality are ''Acquired Funds''). Under the Plans, each Acquiring Fund will acquire all of the assets and substantially all of the liabilities of the corresponding Acquired Fund in exchange for shares of the Acquring Fund (each, a ''Reorganization''). The shares of each Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the corresponding Acquired Fund's shares determined as of the close of business on the business day preceding the closing date of the Reorganizations (''Closing Date''), which is currently anticipated to occur on October 12, 2001. On the Closing Date, each Acquired Fund will liquidate and distribute pro rata the classes of shares of the Acquiring Fund received in the Reoganization to the shareholders of the Acquired Fund. The value of the assets of the Funds will be determined in the manner set forth in the Funds' then-current prospectus and statement of additional information.

3. Applicants state that the investment objectives and policies of each Acquiring Fund are similar to those of the corresponding Acquired Fund. U.S. Government offers two classes of shares, and Gradison currently offers only one class of shares. In connection with the Reorganizations, Gradison will introduce a new class, and shareholders of U.S. Government will receive shares of Gradison subject to the same sales charges and distribution fees as their current shares. Investment Quality and Intermediate Income both offer two classes of shares. Shareholders of Investment Quality will receive shares of intermediate Income subject to the same sales charges, distribution fees and shareholder servicing fees as their current shares.[1] No sales charge will be imposed in connection with the Reorganizations. The Funds will be responsible for paying pro rata one-half of the expenses incurred in connection with the Reorganizations, and the Adviser will be responsible for paying the other one-half of the expenses.

4. The Board, including a majority of the Independent Trustees, determined that the Reorganizations are in the best interests of the Funds and their shareholders and that the interests of the existing shareholders would not be diluted by the Reorganizations. In approving the Reorganizations, the Board considered various factors, including: (a) The investment objectives, policies and limitations of the Acquiring and Acquired Funds: (b) the terms and conditions of the Reorganizations; (c) the tax-free nature of the Reorganizations; (d) the expenses of the Acquiring and Acquired Funds; and (e) the economies of scale that are likely to result from the larger asset base of the combined Funds.

5. The Reorganizations are subject to a number of conditions, including that: (a) the shareholders of each Acquired Fund approve the respective Plan; (b) the Acquiring and Acquired Funds receive opinions of counsel that the Reorganizations will be tax-free for the Funds, and (c) applicants receive from the Commission an exemption from section 17(a) of the Act for the Reorganizations. Either Plan may be terminated by the mutual consent of the Acquiring and Acquired Fund or by either Fund in the case of a breach of the Plan. Applicants agree not to make any material changes to either Plan without prior approval of the Commission or its staff.

6. The mailing of the combined prospectus and proxy statement to shareholders of the Acquired Funds began on July 24, 2001, and definitive proxy materials were filed with the

[1] A deferred sales charge may be imposed on certain redemptions of one class of shares of Intermediate Income and the corresponding class of shares of Investment Quality. Following the Closing Date, shareholders of Investment Quality, who purchased shares that would have been subject to the deferred sales charge upon redeeming their shares had the Reorganization not occurred, can redeem their shares of Intermediate Income received in the Reorganization without the imposition of a deferred sales charge.

Commission on July 24, 2001. The shareholders of Investment Quality approved the Reorganization at a meeting held on September 13, 2001. The meeting of shareholders of U.S. Government is scheduled for September 27, 2001.

**Applicants' Legal Analysis**

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include, among others: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganizations because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors/trustees, and/or common officers. Each of McDonald & Co. Securities, Inc. and SNBOC and Company owns of record, and may under certain circumstances have the power to vote, more than 5% of the outstanding voting securities of both Acquiring Funds and Acquired Funds. Accordingly, each Acquiring Fund may be deemed an affiliated person of a affiliated person of its corresponding Acquired Funds for a reason other than having a common investment adviser, common directors/trustees and/or common officers.

4. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganizations. Applicants submit that the Reorganizations satisfy the standards of section 17(b). Applicants state that the Reorganizations will be based on the relative net asset values of the Acquiring and Acquired Funds' shares. Applicants also state that the investment objectives and policies of the Funds are similar. Applicants state that the board, including the Independent Trustees, has made the requisite determinations that the participation of the Acquiring and Acquired Funds in the Reorganizations is in the best interests of each Fund and that such participation will not dilute the interests of the existing shareholders of each Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–23741 Filed 9–21–01; 8:45 am]

BILLING CODE 8010–01–M

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## SECURITIES AND EXCHANGE COMMISSION

### Agency Meetings

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 meetings during the week of September 24, 2001: an open meeting will be held on Tuesday, September 25, 2001, in Room 1C30, the William O. Douglas Room, at 1 p.m., and closed meetings will be held on Wednesday, September 26, 2001 and Friday, September 28, 2001, at 10 a.m.

Commissioner Hunt, as duty officer, determined that no earlier notice thereof was possible.

The subject matters of the open meeting scheduled for Tuesday, September 25, 20001, will be:

1. The Commission will consider a recommendation to propose rules and form amendments that would require foreign private issuers and foreign governments to file their securities documents electronically through the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. Currently the Commission's rules only permit, but do not require, foreign issuers to file their securities documents on EDGAR.

For further information, please contact Elliot B. Staffin, Special Counsel, Office of International Corporate Finance, Division of Corporation Finance at (202) 942–2990.

2. The Commission will consider proposed rules regarding margin requirements for security futures. The Commission would propose these rules jointly with the Commodity Futures Trading Commission pursuant to authority delegated by the Board of Governors of the Federal Reserve System.

For further information, please contact Lisa Jones, Attorney, Division of Market Regulation at (202) 942–0063.

3. The Commission will consider whether to amend Securities Exchange Act of 1934 Rules 15c3–3, 17a–3, 17a–4, 17a–5, 17a–7, 17a–11, and 17a–13. These amendments are designed to eliminate duplicative or conflicting regulations applicable to firms that are fully-registered with the CFTC as an FCM and fully-registered with the SEC as a broker-dealer relating to the treatment of customer funds, securities or property, maintenance of books and records, financial reporting or other financial responsibility rules involving security futures products (''SFPs''), as directed by the Commodity Futures Modernization Act of 2000. The amendments are also designed to eliminate certain conflicting or duplicative recordkeeping, reporting, telegraphic notice, and quarterly count requirements involving SFPs for firms that are ''notice'' registered with the Commission under Exchange Act Section 15(b)(11)(A). These amendments were developed in consultation with the CFTC.

For further information, please contact Michael Macchiaroli, Associate Director, Division of Market Regulation at (202) 942–0132, Thomas McGowan, Assistant Director, Division of Market Regulation at (202) 942–4886, or Bonnie Gauch, Attorney, Division of Market Regulation at (202) 942–0765.

4. The Commission will consider extending the compliance date of Rule 11Ac1–7 under the Securities Exchange Act of 1934. Rule 11Ac1–7 requires a broker-dealer to disclose to its customer when the customer's order for listed options is executed at a price inferior to a better published quote, and to disclose the better published quote available at that time, unless the broker-dealer effects the transaction on an exchange

that participates in an approved linkage plan.

For further information, please contact Jennifer Colihan, Attorney, Division of Market Regulation at (202) 942–0735.

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 meetings scheduled for Wednesday, September 26, 2001, and Friday, September 28, 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 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 at (202) 942–7070.

Dated: September 19, 2001.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 01–23838 Filed 9–19–01; 4:50 pm]

**BILLING CODE 8010–01–M**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44813; File No. SR–NASD–2001–57]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Conform NASD Regulation, Inc.'s By-Laws to the NASD By-Laws, and Increase the Maximum Size of the NASD Regulation Board

September 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 12, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Association filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(3) thereunder[4] as being concerned solely with the administration of the self-regulatory organization, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to amend the By-Laws of its subsidiary, NASD Regulation, Inc. (''NASD Regulation''). The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

**BY-LAWS OF NASD REGULATION, INC.**

ARTICLE I

DEFINITIONS

* * * * *

(i) ''Director'' means a member of the Board[, excluding the Chief Executive Officer of the NASD];

* * * * *

(q) ''Industry Director'' or ''Industry member'' means a Director (excluding the President *of NASD Regulation and the Chief Executive Officer of NASD*) or a National Adjudicatory Council or committee member who (1) Iis or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (2) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (3) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (4) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or member's firm or partnership; (5) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or member's firm or partnership; or (6) has a consulting or employment relationship with or provides professional services to the NASD, NASD Regulation, Nasdaq, NASD Dispute Resolution, or Amex (and any predecessor), or has had any such relationship or provided any such services at any time within the prior three years;

* * * * *

(y) ''Non-Industry Director'' or ''Non-Industry member'' means a Director (excluding the President *of NASD Regulation and the Chief Executive Officer of NASD*) or a National Adjudicatory Council or committee member who is (1) a Public Director or Public member; (2) an officer or employee of an issuer of securities listed on Nasdaq or Amex, or traded in the over-the-counter market; or (3) any other individual who would not be an Industry Director or Industry member;

* * * * *

Number of Directors

Sec. 4.2 The Board shall consist of no fewer than five and no more than [ten ]*fifteen* Directors, the exact number to be determined by resolution adopted by the stockholder of NASD Regulation from time to time. Any new Director position created as a result of an increase in the size of the Board shall be filled pursuant to Section 4.4.

Qualifications

Sec. 4.3(a) Directors need not be stockholders of NASD Regulation. Only Governors of the NASD Board shall be eligible for election to the Board. The number of Non-Industry Directors shall equal or exceed the number of Industry Directors [plus the President]. The Board shall include the President and the National Adjudicatory Council Chair, representatives of an issuer of investment company shares or an

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(3).

affiliate of such an issuer, and an insurance company or an affiliated NASD member. If the Board consists of 5–7 Directors, it shall include at least one Public Director. If the Board consists of eight *to nine* Directors, at least two Directors shall be Public Directors.[and I] *If* the Board consists of ten *to twelve* Directors, at least three *Directors* shall be Public Directors, *and if the Board consists of thirteen to fifteen Directors, at least four shall be Public Directors.* The Chief Executive Officer of the NASD shall be an ex-officio non-voting member of the Board.

* * * * *

Committees

Sec. 4.13(f) The Board may appoint an Executive Committee, which shall, to the fullest extent permitted by Delaware law and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of NASD Regulation between meetings of the Board, and which may authorize the seal of NASD Regulation to be affixed to all papers that may require it. The Executive Committee shall consist of three or four Directors, including at least one Public Director. The President of NASD Regulation shall be a member of the Executive Committee. The number of Non-Industry committee members shall equal or exceed the number of Industry committee members [plus the President]. An Executive Committee member shall hold office for a term of one year. At all meetings of the Executive Committee, a quorum for the transaction of business shall consist of a majority of the Executive Committee, including not less than 50 percent of the Non-Industry committee members. In the absence of a quorum, a majority of the committee members present may adjourn the meeting until a quorum is present.

* * * * *

## 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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Association has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On May 8, 2001, the Commission approved certain amendments to the NASD By-Laws.[5] The NASD By-Laws were amended to reclassify the NASD Chief Executive Officer and President of NASD Regulation Governor positions as neutral Governors; that is, neither Industry nor Non-Industry Governors. The reclassification of those Governor positions was consistent with the neutrality classification other self-regulatory organizations assign to their staff Board members and allow the two Industry seats the staff occupied before the reclassification to be available to Industry candidates elected by the NASD membership. The proposed conforming changes to the NASD Regulation By-Laws will similarly reclassify the NASD Chief Executive Officer and President of NASD Regulation Director positions as neutral Director positions.

Additionally, the proposed NASD Regulation By-Law amendment increasing the maximum size of the Board will allow the NASD more flexibility in determining the size of the NASD Regulation Board.

2. Statutory Basis

The NASD believes the proposed rule change is consistent with Section 15A(b)(4) of the Act,[6] which requires, among other things, that the Association's rules be designed to assure a fair representation of its members in the administration of its affairs. The NASD believes that the proposed rule change enhances the Association's ability to assure fair representation on the NASD Regulation Board.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

[5] *See* Securities Exchange Act Release No. 44280 (May 8, 2001), 66 FR 26892 (May 15, 2001) SR–NASD–2001–06).

[6] 15 U.S.C. 78o–3(b)(4).

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(3) of Rule 19b–4 thereunder,[8] because it is concerned solely with the administration of the Association. At any time within 60 days of the filing of proposed rule change, the Commission nat summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to file number SR–NASD–2001–57 and should be submitted by October 15, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–23742 Filed 9–21–01; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(3).

[9] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of reporting requirements submitted for OMB review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Submit comments on or before October 24, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

*Copies:* Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**ADDRESSES:** Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline White, Agency Clearance Officer, (202) 205–7044.

**SUPPLEMENTARY INFORMATION:**

*Title:* Applications for Business Loans.

*No's:* 4, 4SCH.A, 4–L, 4–SHORT, 4I.

*Frequency:* On occasion.

*Description of Respondents:* Applicants applying for a SBA Business Loan.

*Responses:* 60,000.

*Annual Burden:* 1,200,000.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 01–23728 Filed 9–21–01; 8:45 am]

BILLING CODE 8025–01–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket No. 301–121]**

### Notice of Rescheduling in the Section 302 Investigation of the Intellectual Property Laws and Practices of the Government of Ukraine

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** The public hearing in the investigation of the Intellectual Property Laws and Practices of the Government of Ukraine is rescheduled for 10 am on September 25, 2001. Rebuttal comments are due by September 28, 2001.

**ADDRESSES:** Rebuttal comments should be submitted to Sybia Harrison, Staff Assistant to the Section 301 Committee, ATTN: Docket 301–121, Office of the United States Trade Representative, 1724 F Street, NW., Room 217, Washington, DC 20508. The public hearing will be held at the Office of the United States Trade Representative, 1724 F Street, NW., Rooms 1 and 2, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Sybia Harrison, Staff Assistant to the Section 301 Committee, (202) 395–3419; or William Busis, Office of the General Counsel, Office of the United States Trade Representative, (202) 395–3150.

**SUPPLEMENTARY INFORMATION:** On August 10, 2001, the Office of the United States Trade Representative published a notice entitled Determination of Action To Suspend GSP Benefits Under Section 301(b); Further Proposed Action and Publication of Preliminary Product List; and Request for Public Comment: Intellectual Property Laws and Practices of the Government of Ukraine (66 FR 42246). As indicated above, the date for the public hearing and the due date for rebuttal comments have been rescheduled.

**William Busis,**

*Chairman, Section 301 Committee.*

[FR Doc. 01–23802 Filed 9–21–01; 8:45 am]

BILLING CODE 3190–01–P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[CGD08–01–033]**

### Lower Mississippi River Waterway Safety Advisory Committee

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** The Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) will meet to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. The meeting will be open to the public.

**DATES:** LMRWSAC will meet on Tuesday, October 16, 2001, from 9 a.m. to 12 noon. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before October 5, 2001. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 50 copies to the Committee Administrator at the location indicated under Addresses no later than October 5, 2001.

**ADDRESSES:** LMRWSAC will meet in the basement conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. Send written material and requests to make oral presentations to LT(jg) Zeita Merchant, Committee Administrator, c/o Commanding Officer, Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, LA 70112.

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice, contact LT(jg) Zeita Merchant, Committee Administrator, telephone (504) 589–4222, Fax (504) 589–4241.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

#### Agenda of Meeting

*Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC).* The agenda includes the following:

(1) Introduction of committee members
(2) Remarks by RADM R. Casto, Committee Sponsor
(3) Approval of the April 19, 2001 minutes
(4) Old Business:
  COTP Update report
  VTS Update report
(5) New Business
(6) Next meeting
(7) Adjournment

#### Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Committee Administrator no later than October 5, 2001. Written material for distribution at the meeting should reach the Coast Guard no later than October 5, 2001. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 50 copies to the Committee Administrator at the location indicated under Addresses no later than October 5, 2001.

#### Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with

disabilities, or to request special assistance at the meetings, contact the Committee Administrator at the location indicated under Addresses as soon as possible.

Dated: September 12, 2001.

**J.R. Whitehead,**

*Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.*

[FR Doc. 01–23713 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Opportunity for Public Comment on Surplus Property Release at Lee Gilmer Memorial Airport, Gainesville, GA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the City of Gainesville to waive the requirement that a 0.75-acre parcel of surplus property, located at the Lee Gilmer Memorial Airport, be used for aeronautical purposes.

**DATES:** Comments must be received on or before October 24, 2001.

**ADDRESSES:** Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. J. Carlyle Cox, City Manager, City of Gainesville at the following address: Post Office Box 2496, Gainesville, Georgia 30503–2496.

**FOR FURTHER INFORMATION CONTACT:** E.C. Hunnicutt, Program Manager, Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747, 404/305–7145. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA is reviewing a request by the City of Gainesville, Georgia to release 0.75 acres of surplus property at the Lee Gilmer Memorial Airport. The property will be purchased by Mr. Carl T. Whitehead for access to a warehouse facility. The property is located on Short Street approximately 1000 feet south of Ridge Road near the intersection of Queen City Parkway. The net proceeds from the sale of this property will be used for airport purposes.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Gainesville City Manager's Office.

Issued in Atlanta, Georgia, September 4, 2001.

**Scott L. Seritt,**

*Manager, Atlanta Airports District Office, Southern Region.*

[FR Doc. 01–23783 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Request To Release Airport Property at the Pueblo Memorial Airport, Pueblo, CO

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invite public comment on the release of land at Pueblo Memorial Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

**DATES:** Comments must be received on or before October 20, 2001.

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Alan Wiechmann, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Ave., Suite 224, Denver, Colorado, 80249. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John B. O'Neal, Director of Aviation, Pueblo Memorial Airport, 31201 Bryon Circle, Pueblo, Colorado 81001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cynthia Romero, Project Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Ave., Suite 224, Denver, Colorado 80249. The request to release property may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release property at the Pueblo Memorial Airport under the provisions of the AIR 21. On September 4, 2001, the FAA determined that the request to release property at Pueblo Memorial Airport submitted by the city met the procedural requirements of the Federal Aviation Regulations, Part 155 (14 CFR part 155). The FAA may approve the request, in whole or in part, no later than November 5, 2001.

The following is a brief overview of the request:

The Pueblo Memorial Airport requests the release of .86 acres of non-aeronautical airport property to the City of Pueblo, Colorado. The purpose of this release is to allow the City of Pueblo to sell the subject land to Utilicorp United, Inc. The sale of this parcel will provide funds for airport improvements.

Any person may inspect the request by appointment at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, inspect the application, notice and other documents germane to the application in person at Pueblo Memorial Airport, 31201 Bryan Circle, Pueblo, Colorado 81001. Issued in Denver, Colorado on September 5, 2001.

**Alan Wiechmann,**

*Manager, Seattle Airports District Office.*

[FR Doc. 01–23781 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of Four Current Public Collections of Information

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FAA invites public comment on four current public information collections, which will be submitted to OMB for renewal.

**DATES:** Comments must be submitted on or before November 23, 2001.

**ADDRESSES:** Comments may be mailed or delivered to FAA, at the following address: Ms. Judy Street, Room 612, Federal Aviation Administration, Standards and Information Division, APF–100, 800 Independence Avenue, SW, Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Street, at the above address or on (202) 267–9895.

**SUPPLEMENTARY INFORMATION:** The FAA solicits comments on any of the current

collections of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of burden, the quality, utility, and clarity of the information to be collected, and possible ways to minimize the burden of collection. Also note, that 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.

Following are short synopses of the four information collection activities that will be submitted to OMB for requests for renewal:

1. 2120–005, General Operating and Flight rules—FAR 91. Part A of Subtitle VII of the revised Title 49 U.S.C. authorizes the issuance of regulations governing the use of navigable airspace. The reporting and recordkeeping requirements of 14 CFR part 91 prescribe rules governing the operation of aircraft (other than moored balloons, kites, rockets and unmanned free balloons) within the United States. The reporting and recordkeeping requirements prescribed by various sections of Part 91 are necessary for FAA to ensure compliance with these provisions. The respondents are individual airmen, state or local governments, and businesses. The current estimated annual burden is 230,000 hours.

2. 2120–0517, Airport Noise Compatibility Planning 14 CFR part 150. FAA approval makes airport operators' noise compatibility programs eligible for a 10 percent set-aside of discretionary grant funds under the FAA Airport Improvement Program. The respondents are an estimated 17 state and local governments (airport operators). The current estimated annual burden is 54, 9000 hours.

3. 2120–0638, Security Programs for Foreign Air Carriers, 14 CFR part 129. The security programs identify the procedures to be used by air carriers in carrying out their responsibilities under the law to protect persons and property on an aircraft operating in air transportation, intrastate air transportation, and flights to/from the United States against acts of criminal violence and aircraft piracy. The respondents are foreign air carriers. The current estimated annual burden is 5,200 hours.

4. 2120–0669, Flight Data Recorder Resolution Requirements. The information will be used by the FAA to track compliance with the underlying regulation, 14 CFR 121.344 *et al,* and to determine who will be affected by any subsequent FAA action to resolve the problems described by the manufacturer. The respondents are an estimated 50 aircraft operators, and the current estimated annual burden is 67 hours.

Issued in Washington, DC on September 18, 2001.

**Steve Hopkins,**

*Manager, Standards and Information Division, APF–100.*

[FR Doc. 01–23782 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–73]**

### Petitions for Exemption; Summary of Petitions Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before October 15, 2001.

**ADDRESSES:** Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *hhtp://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on September 18, 2001.

**Richard McCurdy,**

*Acting, Assistant Chief Counsel for Regulations.*

**Petitions for Exemption**

*Docket No.:* FAA–2001–1004.
*Petitioner:* America West Airlines, Inc.
*Section of 14 CFR Affected:* 14 CFR 93.123.
*Description of Relief Sought:* To permit America West to operate four flights (two arrivals and two departures) at Ronald Regan Washington National Airport.

*Docket No.:* FAA–2001–9501.
*Petitioner:* U.S. Air Force.
*Section of 14 CFR Affected:* 14 CFR 91.209(a)(1) and (b).
*Description of Relight Sought:* To permit the USAF to conduct certain night flight military training operations in various aircraft without lighted aircraft position lights.

*Docket No.:* FAA–2001–9225.
*Petitioner:* Astral Aviation, Inc. dba Skyway Airlines.
*Section of 14 CFR Affected:* 14 CFR part 121.
*Description of Relight Sought:* To permit Astral to conduct all pilot in command and second in command training and checking for the Fairchild Dornier 328–300 jet airplane in a Level C simulator.

[FR Doc. 01–23773 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–72]**

### Petitions for Exemption; Summary of Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 18, 2001.

**Richard McCurdy,**

*Acting, Assistant Chief Counsel for Regulations.*

## Dispositions of Petitions

*Docket No.:* FAA–2001–9708.

*Petitioner:* Frontier Flying Service, Inc.

*Section of 14 CFR Affected:* 14 CFR 135.152(a).

*Description of Relief Sought/ Disposition:* To permit FFS to operate 3 Beech 1900C airplanes (Serial Nos. UC–83, UC–95, and UC–136) without those airplanes meeting the digital flight data recorder requirements of that section. *Grant, 08/17/2001, Exemption No. 7606.*

*Docket No.:* FAA–2001–9426.

*Petitioner:* Trans States Airlines, Inc.

*Section of 14 CFR Affected:* 14 CFR 121.344(d).

*Description of Relief Sought/ Disposition:* To permit Trans States to operate five Avions de Transport Regional ATR 42 and three ATR 72 airplanes without those airplanes having the capability to record data in accordance with the following paragraphs of § 121.344(a), as applicable: (9) Thrust/power of each engine—primary flight crew reference;; (10) Autopilot engagement status; (12) Pitch control input; (13) Lateral control input; (14) Rudder pedal input; (15) Primary pitch control surface position; (16) Primary lateral control surface position; (30) Master warning; (31) Air/ ground sensor (primary airplane system reference nose or main gear); (32) Angle of attack (when an information source is installed); (34) Ground speed (when an information source is installed). *Grant, 08/17/2001, Exemption No. 7597.*

*Docket No.:* FAA–2001–9439.

*Petitioner:* Carson Helicopter Services, Inc.

*Section of 14 CFR Affected:* 14 CFR 135.152(a).

*Description of Relief Sought/ Disposition:* To permit Carson to operate its 5 Sikorsky S61N helicopters (Registration Nos. N612RM, N7011M, N4503E, N116AZ, and N4263A; and Serial Nos. 61–744, 61–216, 61–220, 61–242, and 61–551, respectively) without those helicopters being equipped with an approved digital flight data recorder. *Grant, 08/23/2001, Exemption No. 7611.*

*Docket No.:* FAA–2001–9458.

*Petitioner:* Boeing Commercial Airplane Group.

*Section of 14 CFR Affected:* 14 CFR 25.785(h)(2), 25.807(f)(4), 25.813(e), 25.853(d).

*Description of Relief Sought/ Description:* (1) To permit Boeing to install flight attendant seats that do not provide direct view of the cabin; (2) to allow for exit distances greater than sixty feet; (3) to permit Boeing to install interior doors between passenger compartments; and (4) to permit Boeing to install interior materials that do not comply with heat release and smoke emission requirements, on the Boeing Model 737–800 airplane. *Grant, 08/17/ 2001, Exemption No. 7609.*

*Docket No.:* FAA–2001–9285.

*Petitioner:* Mesaba Aviation, Inc.

*Section of 14 CFR Affected:* 14 CFR 121.344(d).

*Description of Relief Sought/ Disposition:* To permit Mesaba to operate 18 British Aerospace BAe RJ85 Avroliner airplanes without installing the required approved digital flight data recorder capable of recording all required parameters. *Grant, 08/23/2001, Exemption No. 7600A.*

*Docket No.:* FAA–2001–9462.

*Petitioner:* Trans States Airlines, Inc.

*Section of 14 CFR Affected:* 14 CFR 121.344(d).

*Description of Relief Sought/ Disposition:* To permit Trans States to operate five Avions de Transport Regional ATR 42 and three ATR 72 airplanes without those airplanes having the capability to record data in accordance with certain paragraphs of § 121.344(a). *Grant, 08/23/2001, Exemption No. 7597A.*

*Docket No.:* FAA–2001–8883.

*Petitioner:* Atlantic Southeast Airlines, Inc.

*Section of 14 CFR Affected:* 14 CFR 121.344(d)(1).

*Description of Relief Sought/ Disposition:* To permit ASA to operate 19 Avions de Transport Regional ATR airplanes without those airplanes having the capability to record data in accordance with certain paragraphs of § 121.344(a). *Grant, 08/23/2001, Exemption No. 7601A.*

*Docket No.:* FAA–2001–9740.

*Petitioner:* American Eagle Airlines, Inc.

*Section of 14 CFR Affected:* 14 CFR 121.344(c)(1) and (d)(1).

*Description of Relief Sought/ Disposition:* To permit AME to operate certain Avions de Transport Regional ATR 42 and ATR 72 airplanes without those airplanes having the capability to record data in accordance with certain paragraph of § 121.344(a). *Grant, 08/23/ 2001, Exemption No. 7599A.*

*Docket No.:* FAA–2001–9875.

*Petitioner:* Continental Express Airlines.

*Section of 14 CFR Affected:* 14 CFR 121.344(c) and (d).

*Description of Relief Sought/ Disposition:* To permit Continental Express to operate certain Avions de Transport Regional ATR 42 airplanes without those airplanes having the capability to record data in accordance with certain paragraphs of § 121.3449a). *Grant, 08/23/2001, Exemption No. 7602A.*

*Docket No.:* FAA–2001–8943.

*Petitioner:* Avianca S.A.

*Section of 14 CFR Affected:* 14 CFR 121.344(d).

*Description of Relief Sought/ Disposition:* To permit Avianca to operate a Boeing 757 airplane (Registration No. N321LF, serial No. 26269) without that airplane being able to record data in accordance with § 121.344(a)(14) and (17). *Grant, 08/23/ 2001, Exemption No. 7607A.*

[FR Doc. 01–23774 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–71]**

### Petitions for Exemption; Summary of Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of

dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 18, 2001.

**Richard McCurdy,**

*Acting Assistant Chief Counsel for Regulations.*

**Dispositions of Petitions**

*Docket No.:* FAA–2001–9371 (previously Docket No. 29658).

*Petitioner:* Sunrise Airlines, Inc.

*Section of 14 CFR Affected:* 14 CFR 121.345(c)(2) and 135.143(c)(2).

*Description of Relief Sought/ Disposition:* To permit Sunrise to operate certain aircraft under part 121 or part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/29/2001, Exemption No. 7061A.*

*Docket No.:* FAA–2001–9862 (previously Docket No. 29687).

*Petitioner:* Bright Star Aviation.

*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/ Disposition:* To change the name of the exemption holder from R&M Aviation to Bright Star and to permit Bright Star to operate its Agusta A–109E helicopter (registration No. N97CH; serial NO. 11012) under part 135 without a TSAO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/30/2001, Exemption No. 7078A.*

*Docket No.:* FAA–2001–10058.

*Petitioner:* Rhoades Aviation, Inc.

*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/ Disposition:* To permit Rhoades to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/29/2001, Exemption No. 7614.*

*Docket No.:* FAA–2001–9598 (previously Docket No. 29728).

*Petitioner:* Air Wilmington.

*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/ Disposition:* To permit Air Wilmington to operate its Beechcraft King Air A90 (Registration No. N198BC, Serial No. LJ–147) under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/29/2001, Exemption No. 7060A.*

*Docket No.:* FAA–2001–9494 (previously Docket No. 28918).

*Petitioner:* Cherry-Air, Inc.

*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/ Disposition:* To permit Cherry-Air to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/29/2001, Exemption No. 7036A.*

*Docket No.:* FAA–2001–8806.

*Petitioner:* America West Airlines, Inc.

*Section of 14 CFR Affected:* 14 CFR 93.123.

*Description of Relief Sought/ Disposition:* To permit Mesa Airlines, Inc., or any regional air carrier flying as America West Express, to conduct operations using any or all of America West's slots, allocated under the exemption for America West Express flights between Ronald Reagan Washington National Airport and Port Columbus International Airport. *Grant, 08/30/2001, Exemption No. 5113J.*

*Docket No.:* FAA–2001–10136.

*Petitioner:* EADS Airbus GmbH.

*Section of 14 CFR Affected:* 14 CFR 25.785(d), 25.813(b), 25.857(e), 25.1447(c)(1) and 35.1447(c)(2)(ii).

*Description of Relief Sought/ Disposition:* To permit type certification of the Airbus Model A300B4–600/–600R series airplanes, with provisions for the carriage of supernumeraries when the airplane is equipped with two floor level exists with escape slides, within the occupied area. *Grant, 08/30/2001, Exemption No. 7616.*

*Docket No.:* FAA–2001–9410.

*Petitioner:* U.S. Air Force.

*Section of 14 CFR Affected:* 14 CFR 91.159.

*Description of Relief Sought/ Disposition:* To permit the USAF to conduct nontraining photographic reconnaissance missions that require flying a series of tracks at a constant altitude under visual flight rules, without maintaining the appropriate cruising altitude required under § 91.159. *Grant, 09/06/2001, Exemption No. 134J.*

*Docket No.:* FAA–2001–9409.

*Petitioner:* U.S. Air Force.

*Section of 14 CFR Affected:* 14 CFR 91.159(c).

*Description of Relief Sought/ Disposition:* To permit the USAF to operate certain aircraft under visual flight rules at or above flight level 600 without maintaining the appropriate cruising altitude as required under § 91.159(c). *Grant, 09/06/2001, Exemption No. 103E.*

[FR Doc. 01–23775 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

**[Summary Notice No. PE–2001–70]**

## Petitions for Exemption; Summary of Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of disposition of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 18, 2001.

**Richard McCurdy,**

*Acting, Assistant Chief Counsel for Regulations.*

**Dispositions of Petitions**

*Docket No.:* FAA–2001–10263.

*Petitioner:* Wisconsin Aviation, Inc.

*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/ Disposition:* To permit Wisconsin Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 08/21/2001, Exemption No. 7612.*

*Docket No.:* FAA–2001–9727 (previously Docket No. 27441).

*Petitioner:* Department of the Army.

*Section of 14 CFR Affected:* 14 CFR 45.29(b)(3).

*Description of Relief Sought/ Disposition:* To permit the Army to use 9-inch aircraft nationality and registration markings in lieu of 12-inch markings on its Bell Model 206B3 rotorcraft. *Grant, 08/21/2001, Exemption No. 5761C.*

*Docket No.:* FAA–2001–9793.

*Petitioner:* Taunton Airport Association, Inc.

*Section of 14 CFR Affected:* 14 CFR 135.251, 135.353, and appendixes I and J to part 121.

*Description of Relief Sought/ Disposition:* To permit TAA to conduct local sightseeing flights at the Taunton Municipal Airport for its annual TAA charity fundraising event during October 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/04/ 2001, Exemption No. 7617.*

*Docket No.:* FAA–2001–9195 (previously Docket No. 27491).

*Petitioner:* Helicopter Association International and the Association of Air Medical Services.

*Section of 14 CFR Affected:* 14 CFR 135.213(a).

*Description of Relief Sought/ Disposition:* To permit HAI and AAMS members who are part 135 certificate holders that conduct helicopter emergency medical service (EMS) operations to conduct EMS departures under instrument flight rules in weather that is at or above visual flight rules minimums from airports or helicopters at which a weather report is not available from the U.S. National Weather Service (NWS), a source approved by the NWS, or a source approved by the Administrator. *Grant, 08/23/2001, Exemption No. 6175C.*

*Docket No.:* FAA–2001–9367 (previously Docket No. 26919).

*Petitioner:* Kalamazoo Aviation History Museum.

*Section of 14 CFR Affected:* 14 CFR 45.25 and 45.29.

*Description of Relief Sought/ Disposition:* To permit the Museum to operate its Ford Tri-motor, Model No. 5–AT–C aircraft (Registration No. N8149; Serial No. 58) with 3-inch-high nationality and registration marks located on each side of the fuselage under the leading edge of the horizontal stabilizer. *Grant, 09/04/2001, Exemption No. 5519D.*

*Docket No.:* FAA–2001–10075 (previously Docket No. 28559).

*Petitioner:* Rockwell Collins, Inc.

*Section of 14 CFR Affected:* 14 CFR 21.327(a).

*Description of Relief Sought/ Disposition:* To permit Rockwell to use a printout from its Order Management System for a Class II product instead of the Application for Export Certificate of Airworthiness (Form 8130–1.) *Grant, 08/31/2001, Exemption No. 6604C.*

*Docket No.:* FAA–2001–9352 (previously Docket No. 18881).

*Petitioner:* International Aerobatic Club, a division of the Experimental Aircraft Association.

*Section of 14 CAR Affected:* 14 CAR 91.151(a)(1).

*Description of Relief Sought/ Disposition:* To permit the MAC and MAC members participating in MAC-sponsored and/or -sanctioned Aerobatic competitions conducted in accordance with MAC Official Contest Rules, to begin flight in an airplane, considering local conditions affecting fuel consumption, when there is enough fuel aboard the aircraft to take off, complete the planned flight maneuvers, and land at the same airport with enough fuel to fly for an additional 10 minutes at normal cruising speed. *Grant, 08/31/ 2001, Exemption No. 5745D.*

*Docket No.:* FAA–2001–10266.

*Petitioner:* Piedmont Southern Air Freight, Inc.

*Section of 14 CAR Affected:* 14 CAR 135.143(c)(2).

*Description of Relief Sought/ Disposition:* To permit Piedmont to operate certain aircraft under part 135 without a TAO–C112 (Mode S) transponder installed in the aircraft. *Grant, 08/29/2001, Exemption No. 7615.*

[FR Doc. 01–23776 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–69]**

### Petitions for Exemption; Summary of Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 18, 2001.

**Richard McCurdy,**

*Acting, Assistant Chief Counsel for Regulations.*

### Dispositions of Petitions

*Docket No.:* FAA–2001–10203.

*Petitioner:* Hageland Aviation Services, Inc.

*Section of 14 CFR Affected:* 14 CFR #43.3(g).

*Description of Relief Sought/ Disposition:* To permit Hageland's pilots to update KLN 89B, 90B, and GX 60 global positioning system (GPS) equipment in its aircraft operating under 14 CFR part 135. *Denial, 08/27/ 2001, Exemption No. 7613.*

*Docket No.:* FAA–2001–9774 (previous Docket No. 28708).

*Petitioner:* Empire Airlines, Inc.

*Section of 14 CFR Affected:* 14 CFR 43.9 and 121.709(b)(3).

*Description of Relief Sought/ Disposition:* To permit Empire to use electronic signatures in lieu of physical signatures to satisfy airworthiness release or aircraft log entry signature requirements of § 43.9 for operation conducted under 14 CFR part 135 and § 121.709(b)(3) for operations conducted under part 121. *Grant, 08/30/2001, Exemption No. 6668B.*

*Docket No.:* FAA–2001–9896.

*Petitioner:* Midwest Express Airlines, Inc.

*Section of 14 CFR Affected:* 14 CFR 145.45(f).

*Description of Relief Sought/ Disposition:* To allow Midwest Express to place copies of its Inspection Procedures Manual (IPM) in a central location and assign copies of the IPM to certain individuals rather than giving a copy to each of its supervisory and inspection personnel. *Grant, 08/20/ 2001, Exemption No. 7610.*

*Docket No.:* FAA–2001–10436.

*Petitioner:* Angel Flight of Georgia.

*Section of 14 CFR Affected:* 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.

*Description of Relief Sought/Disposition:* To permit Angel Flight to conduct local sightseeing flights at the Dekalb Peachtree Airport for the annual Angel flight Fly Around Town fundraiser during September 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/07/2001, Exemption No. 7619.*

*Docket No.:* FAA–2001–10277.

*Petitioner:* Denmark Volunteer Fire Department (DVFD).

*Section of 14 CFR Affected:* 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.

*Description of Relief Sought/Disposition:* To permit DVFD to conduct local sightseeing flights at Eastern Slopes Regional Airport, Fryeburg, Maine, for their annual event during September 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/10/2001, Exemption No. 7618.*

*Docket No.:* FAA–2001–9435 (previously Docket No. 29756).

*Petitioner:* ExecuJet Charter Service, Inc.

*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit ExecuJet to operate its Hawker Model DH 125–400A aircraft (registration No. N810HS, serial No. 25271) under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 08/29/2001, Exemption No. 7064A.*

[FR Doc. 01–23777 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application (01–04–C–00–HDN) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Yampa Valley Regional Airport, Submitted by the County of Routt, CO

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Intent to Rule on Application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Yampa Valley Regional Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR 158).

**DATES:** Comments must be received on or before October 24, 2001.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Weichmann, Manager; Denver Airports District Office, DEN–ADO; Federal Administration; 2605 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James C. Parker, Director or Aviation, at the following address: Yampa Valley Regional Airport, P.O. Box N, Hayden, Colorado 81639.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Yampa Valley Regional Airport, under section 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application (01–04–C–00–HDN) to impose and use PFC revenue at Yampa Valley Regional Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 12, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Routt County, Colorado, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 18, 2001.

The following is a brief overview of the application.

*Level of the proposed PFC:* $4.50.

*Proposed charge effective date:* June 1, 2002.

*Total Requested for impose and use approval:* $150,833,00.

*Brief description of proposed projects:* Runway 10/28 distance to go signs, snow removal equipment, air carrier apron drainage (glycol containment), master plan update, and Taxiway A rehabilitation and lighting improvements.

*Class or classes of air carriers that the public agency has requested not be required to collect PFC's:* None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yampa Valley Regional Airport.

Issued in Renton, Washington on September 12, 2001.

**David A. Field,**

*Manager, Planning Programming and Capacity Branch, Northwest Mountain Region.*

[FR Doc. 01–23784 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2001–10651]**

### Information Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

**DATES:** Comments should be submitted on or before November 23, 2001.

**FOR FURTHER INFORMATION CONTACT:** Evelyn Harley, Maritime Administration, (MAR 560), 400 7th Street, SW., Washington, DC 20590, TEL 202–366–5867 or FAX 202–366–9580. Copies of this collection can also be obtained from that office.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Uniform Financial Reporting Requirements.

*Type of Request:* Extension of currently approved information collection.

*OMB Control Number:* 2133–0005.

*Form Numbers:* MA–172.

*Expiration Date of Approval:* April 30, 2002.

*Summary of Collection of Information:* The Uniform Financial Reporting Requirements are used as a basis for preparing and filing semiannual and annual financial statements with the Maritime

Administration. Regulations requiring financial reports to the Maritime Administration are authorized by Section 801, Merchant Marine Act, 1936, as amended.

*Need and Use of the Information:* The collected information is necessary for MARAD to determine compliance with regulatory and contractual requirements.

*Description of Respondents:* Vessel owners acquiring ships from MARAD on credit, companies chartering ships from MARAD, and companies having Title XI guarantee obligations.

*Annual Responses:* 198.

*Annual Burden:* 1881 hours.

*Comments:* Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

Dated: September 18, 2001.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary.*

[FR Doc. 01–23807 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Maritime 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 abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published in **Federal Register** 66, 35826 on July 9, 2001. No comments were received.

**DATES:** Comments must be submitted on or before October 24, 2001.

**FOR FURTHER INFORMATION CONTACT:** Joe Strassburg, Office of Insurance and Shipping Analysis, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–4156 or FAX 202–366–7901. Copies of this collection can also be obtained from that office.

**SUPPLEMENTARY INFORMATION:** Maritime Administration (MARAD).

*Title:* War Risk Insurance.

*OMB Control Number:* OMB 2133–0011.

*Type of Request:* Extension of currently approved collection.

*Affected Public:* Vessel owners or charterers interested in participation in MARAD's war risk insurance program.

*Forms:* MA 355; MA 528; MA 742; MA 828; and MA 942.

*Abstract:* As authorized by Section 1202, Title XII, Merchant Marine Act, 1936, as amended, the Secretary of the U.S. Department of Transportation may provide war risk insurance adequate for the needs of the waterborne commerce of the United States if such insurance cannot be obtained on reasonable terms from qualified insurance companies operating in the United States. This collection is required for the program.

*Annual Estimated Burden Hours:* 626 hours.

*Addressee:* Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

*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 proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on September 18, 2001.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 01–23806 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2001–10526]**

### Notice of Receipt of Petition for Decision That Nonconforming 1999 Ferrari F355 Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 1999 Ferrari F355 Passenger Cars are eligible for importation.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1999 Ferrari F355 Passenger Cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is October 24, 2001.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm).

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

**SUPPLEMENTARY INFORMATION:**

### Background

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.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 1999 Ferrari F355 Passenger Cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1999 Ferrari F355 passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1999 Ferrari F355 passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1999 Ferrari F355 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1999 Ferrari F355 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence* * * * , 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems*, 116 *Brake Fluid,* 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*, as well as 49 CFR 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) substitution of the word ''Brake'' for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamps and front sidemarker lamps, (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps, and (c) installation of U.S.-model high-mounted stop light assembly, if necessary.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 118 *Power Window Systems*: installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off on vehicles that are not already so equipped.

Standard No. 208 *Occupant Crash Protection*: (a) installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. The front outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

Standard No. 214 *Side Impact Protection*: Inspect doors for installation of door bars. Install door bars, if necessary.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 19, 2001.

**Marilynne Jacobs,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 01–23756 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–59–P

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## DEPARTMENT OF TRANSPORTATION

## Surface Transportation Board

**[STB Docket No. AB–32 (Sub–No. 92)]**

## Boston and Maine Corporation—Abandonment—in Suffolk County, MA

On September 4, 2001, the Boston and Maine Corporation (B&M) filed with the Surface Transportation Board (Board) an application under 49 U.S.C. 10903 to abandon and discontinue service on its line of railroad known as the Mystic Wharf Branch, extending between milepost 0.00 and milepost 1.45, a distance of 1.45 miles, in Charlestown, Suffolk County, MA. The line includes no stations and traverses U.S. Postal Service ZIP Code 02129.

The line does not contain federally granted rights-of-way. Any documentation in B&M's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment was filed with the application.

This line of railroad has appeared on B&M's system diagram map or has been

included in its narrative in category 1 since January 1999.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

Any interested person may file with the Board written comments concerning the proposed abandonment or protests (including the protestant's entire opposition case) by October 19, 2001. All interested persons should be aware that, following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) or for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by October 19, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27). Applicant's reply to any opposition statements and its response to trail use requests must be filed by November 2, 2001. A final decision will be issued by December 21, 2001. *See* 49 CFR 1152.26(a).

Persons opposing the proposed abandonment that wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25. Persons interested only in seeking public use or trail use conditions should also file comments.

In addition, a commenting party or protestant may provide:

(i) An offer of financial assistance (OFA) for continued rail service under 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the application is granted by the Board, whichever occurs sooner);

(ii) Recommended provisions for protection of the interests of employees;

(iii) A request for a public use condition under 49 U.S.C. 10905; and

(iv) A statement pertaining to prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

All filings in response to this notice must refer to STB Docket No. AB–32 (Sub-No. 92) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001; and (2) Robert B. Culliford, Law Department, Boston and Maine Corporation, Iron Horse Park, North Billerica, MA 01862. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The line sought to be abandoned will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment, in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is set forth above.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: September 17, 2001.

By the Board, David M. Konschnik, Director Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 01–23679 Filed 9–21–01; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–592 (Sub–No. 1X)**

### Fredonia Valley Railroad, Inc.—Abandonment Exemption—in Caldwell County, KY

Fredonia Valley Railroad, Inc. (FVRR) has filed a verified notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a segment of railroad line between milepost 90.00 and the end of the line at milepost 87.60, near Fredonia, a distance of approximately 2.40 miles in Caldwell County, KY (line).[1] The line traverses United States Postal Service Zip Code 42411.

Applicant has certified that: (1) No local or overhead traffic has moved over the line in more than 2 years' time; (2) any overhead traffic that might have moved on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d)

[1] FVRR acquired an approximate 9.65-mile rail line in *Fredonia Valley Railroad, Inc.—Acquisition and Operation—in Caldwell County, KY,* STB Finance Docket No. 33695 (STB served Jan. 6, 1999). FVRR states that the tracks and ties of the line proposed for abandonment are not intended to be removed; rather, following its abandonment, the line simply will change from a common carrier line to a proprietary line serving the one potential shipper situated on it. Counsel for FVRR has certified that a copy of the verified notice of exemption was served on the shipper on the line.

must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on October 24, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 4, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 15, 2001, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Fritz R. Kahn, Esq., 1920 N Street, NW (8th floor), Washington, DC 20036–1601. If the verified notices contain false or misleading information, the exemptions are void *ab initio.*

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 1, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), FVRR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by FVRR's filing of a notice of consummation by September 24, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: September 12, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 01–23500 Filed 9–21–01; 8:45 am]

**BILLING CODE 4915–00–P**

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–586 (Sub–No. 1X)]**

### North Central Railway Association, Inc.—Abandonment Exemption—in Franklin County, IA

North Central Railway Association, Inc. (NCRA) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 6.25-mile line of railroad between milepost 184.75 near Hampton and milepost 191.0 near Geneva, in Franklin County, IA. The line traverses United States Postal Service Zip Codes 50441 and 50633.

NCRA has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line during the past two years; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 24, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 4, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 15, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: T. Scott Bannister, 1300 Des Moines Building, 405—Sixth Avenue, Des Moines, IA 50309.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NCRA has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NCRA shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by NCRA's filing of a notice of consummation by September 24, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: September 14, 2001.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 01–23678 Filed 9–21–01; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

September 17, 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 24, 2001 to be assured of consideration.

**Bureau of Alcohol, Tobacco and Firearms**

*OMB Number:* 1512–0547.

*Form Number:* ATF F 2931.1.

*Type of Review:* Extension.

*Title:* Race and National Origin Identification.

*Description:* This form on its own and when combined with other Bureau tracking forms will allow the Bureau to determine its applicant/employee pool, and thereby, enhance its recruitment plan. It will also allow the Bureau to determine how its diversity/ EEO efforts are progressing and to determine adverse impact on the employee selection process.

*Respondents:* Individuals or households.

*Estimated Number of Respondents:* 10,000.

*Estimated Burden Hours Per Respondent:* 3 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 500 hours.

*Clearance Officer:* Frank Bowers (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

*OMB Reviewer:* Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Departmental Reports Management Officer.*

[FR Doc. 01–23721 Filed 9–21–01; 8:45 am]

BILLING CODE 4810–31–P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

September 17, 2001.

The Department of the 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 24, 2001 to be assured of consideration.

**Internal Revenue Service**

*OMB Number:* 1545–1324.

*Regulation Project Number:* CO–88–90 Final.

*Type of Review:* Extension.

*Title:* Limitation on Net Operating Loss Carryforwards and Certain Built-in Losses Following Ownership Change; Special Rule for Value of a Loss Corporation Under the Jurisdiction of a Court in a Title 11 Case.

*Description:* This information serves as evidence of an election to apply section 382(l)(6) in lieu of section 382(l)(5) and an election to apply the provisions of the regulations retroactively. It is required by the Internal Revenue Service to assure that the proper amount of carryover attributes are used by a loss corporation following specified types of ownership changes.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 3,250.

*Estimated Burden Hours Per Respondent:* 15 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 813 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. 01–23722 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

September 17, 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 24, 2001 to be assured of consideration.

**Internal Revenue Service**

*OMB Number:* 1545–1345.

*Regulation Project Number:* CO–99–91 Final.

*Type of Review:* Extension.

*Title:* Limitations on Corporate Net Operating Loss.

*Description:* This regulation modifies the application of segregation rules under section 382 in the case of certain issuance of stock by a loss corporation. This regulation provides that the segregation rules do not apply to small issuances of stock, as defined, and apply only in part to certain other issuances of stock.

*Respondents:* Business or other for-profit, Farms.

*Estimated Number of Respondents:* 10.

*Estimated Burden Hours Per Respondent:* 1 hour.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 10 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. 01–23723 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Office of the General Counsel

### Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Acting Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Order No. 21 (Rev. 4), pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Chairperson, Judith C. Dunn, Deputy Chief Counsel (Operations).
2. George B. Wolfe, Deputy General Counsel.
3. Kevin Brown, Division Counsel (Small Business/Self-Employed).
4. Linda Burke, Division Counsel (Large & Mid-Size Business).
5. Mark Kaizen, Associate Chief Counsel (General Legal Services).
6. John Staples, Associate Chief Counsel (International).

This publication is required by 5 U.S.C. 4314(c)(4).

Dated: September 11, 2001.

**Richard Skillman,**

*Acting Chief Counsel, Internal Revenue Service.*

[FR Doc. 01–23787 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[INTL–3–95]**

### Proposed Collection; Comment Request For Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–3–95 (TD 8687), Source of Income From Sales of Inventory and Natural Resources Produced in One Jurisdiction and Sold in Another Jurisdiction (§§ 1.863–1 and 1.863–3).

**DATES:** Written comments should be received on or before November 23, 2001 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title*: Source of Income From Sales of Inventory and Natural Resources Produced in One Jurisdiction and Sold in Another Jurisdiction.

*OMB Number:* 1545–1476.

*Regulation Project Number:* INTL–3–95.

*Abstract:* This regulation provides rules for allocating and apportioning income from sales of natural resources or other inventory produced in the United States and sold outside the United States or produced outside the United States and sold in the United States. The information provided is used by the IRS to determine on audit whether the taxpayer has properly determined the source of its income from export sales.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 425.

*Estimated Time Per Respondent:* 2 hours, 36 minutes.

*Estimated Total Annual Burden Hours:* 1,125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request For Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 14, 2001.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 01–23714 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[REG–251520–96]**

### Proposed Collection; Comment Request For Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–251520–96 (TD 8785), Classification of Certain Transactions Involving Computer Programs (§ 1.861–18(k)).

**DATES:** Written comments should be received on or before November 23, 2001 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Classification of Certain Transactions Involving Computer Programs.

*OMB Number:* 1545–1594.

*Regulation Project Number:* REG–251520–96.

*Abstract:* Section 1.861–18 of this regulation provides rules for classifying transactions involving the transfer of computer programs. The regulation grants the taxpayer consent to change its method of accounting for such transactions by filing Form 3115 with its original return for the year of change.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

The burden for the collection of information in this regulation is reflected in the burden of Form 3115.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 14, 2001.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 01–23715 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[REG–209619–93]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG–209619–93, Escrow Funds and Other Similar Funds.

**DATES:** Written comments should be received on or before November 23, 2001 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Escrow Funds and Other Similar Funds.

*OMB Number:* 1545–1631.

*Regulation Project Number:* REG–209619–93.

*Abstract:* These regulations would amend the final regulations for qualified settlement funds (QFSs) and would provide new rules for qualified escrows and qualified trusts used in deferred section 1031 exchanges; pre-closing escrows; contingent at-closing escrows; and disputed ownership funds.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, not-for-profit institutions and Federal, state, local or tribal governments.

*Estimated Number of Respondents:* 9,300.

*Estimated Time Per Respondent:* .50 hr.

*Estimated Total Annual Burden Hours:* 4,650.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 18, 2001.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 01–23788 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice

**SUMMARY:** This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending June 30, 2001.

| Last name | First name | Middle name |
|---|---|---|
| Aiyasami | Balachander. | |
| Annaratone | Marco. | |
| Anthony | Jessica | B. |
| Atkinson | Paul. | |
| Barnett | Michael | W. |
| Berz | Heide | D. |
| Bissky | Ann | Merice. |
| Bligh | Thomas | Percival. |
| Bligh | Marjory | Nigel. |
| Boelsterli | Daniel | Martin. |
| Borkowsky | Jeffrey | James. |
| Bowers | Angela | Cynthia. |
| Bradburn | George | Arther. |
| Bradshaw | Philippe | Richard Serge. |
| Brouwer | Jolanda | C. |
| Buechner | Linda | L. |
| Canellopoulos | Takis | P. |
| Cha | Laura | M. |
| Cheung | David | Kwokwai. |
| Cheung | Yollanda. | |
| Cleary | John | Michael. |
| Coates | Phillip | Mathew. |
| Cogswell | Nancy | Jean Mackenzie. |
| Compagnon | Marc | Robert. |
| Costa | Paulo | EDU. |
| Del Solar | Ines | Z. |
| Eadie | Robert. | |
| Eadie | Andrew | Septimus. |
| Eadie | Robert. | |
| Everling | Friedrich | Gustav. |
| Felder | Fiona | Catherine. |
| Fenner | Manuela | Claire. |
| Fredericks | Eric | Michael. |
| Frisk | Alan | Eugene. |
| Froehlich | Margarete. | |
| Frohner | John | Edward. |
| Getty | Christopher | Ronald. |
| Gibbons | Barry | John. |
| Gibbons | Judith | Pamela. |
| Gwerder | Donald | Joseph. |
| Harley | Olivia | Millicent. |
| Hendrickson | Donna | Elaine. |
| Holland | John | Graham Foster. |
| Hoomani | Michael. | |
| Hu | Sheng | Cheng. |
| Jabban | Mazen. | |
| Janeen | Siegfried | Carl. |
| Jaquet | Phillipe | Emanuel. |
| Jones | Allen | S. |
| Juraifani | khalid | Hamad. |
| Kaat | Dean | Ronald. |
| Kaercher | Herman | Paul. |
| Kelly | Reginald | Scott. |
| Kelly Jr | Charles | George Edward. |
| Killin | Margaret | Ruth. |
| Kobayashi | Toshiaki. | |
| Krause | Gisela | Bertha Hedwig. |
| Kuan | Roy. | |
| Lam | Hiep | M. |
| Langbroek | Johnpaul | Honore. |
| Lawrenz | Lisa | Jean. |
| Lin | Ching | Hsia. |
| Lin | Syaru | Shirley. |

| Last name | First name | Middle name |
|---|---|---|
| Lincoln | Thomas | Newton. |
| Lindgren | Isabell | Herger. |
| Lo | Grace. | |
| Lo | Henry | Hoinai. |
| Maeland | Arne. | |
| Manthos | Elias | Anthony. |
| McCreight | Pamela | Alecia. |
| McMahan | Robert | Thomas. |
| Morin | Elaine. | |
| Morton | Paulene. | |
| Murdoch | Robert | W. |
| Murdoch | Nadya. | |
| Nah | Clarissa | Mayyen. |
| Nair | Jon | Nathaniel. |
| Nair | Madhu | Soodanan. |
| Nakano | Hiroyasu. | |
| Ng | Michael | Chi Man. |
| O'Brien | Roger | Allen. |
| Ochoa | Mario | Henry . |
| Panchaud | Thomas | Christopher. |
| Parsons | Timothy. | |
| Plummer | Doreen | Marie. |
| Quaiser | Nicholas | Klaus Juergen. |
| Raudales | David | Alberto. |
| Reeder Jr | Homer | Thomas. |
| Reiss | Jonathan | Frederic. |
| Ricardi Jr | John | Robert. |
| Robinson | Allan | Hoben. |
| Robisch | Joseph | A. |
| Ruesch | Peter. | |
| Salim | Rizwan. | |
| Salviati | Martha | Guicciardini Corsi. |
| Sandmeier | Daniel | Marc. |
| Sands | John | Everette. |
| Schrade | Anna | Maria. |
| Schwegmann | Bobby. | |
| Serrano | Alejandra | Catalina. |
| Shemesh | Dalia | Fisher. |
| Siemer | Thomas | Francis. |
| Simon | Hans | Erik. |
| Smith | George | Malcolm. |
| Staruch | Roslana | Olena. |
| Swift | Robert | Z. |
| Thistlewayte | Melissa | Strange. |
| Thorgevsky | Tamara. | |
| Tyler | David | A. |
| Uhrich | Ervin | Edward. |
| Upton | Robert. | |
| Upton | Carol. | |
| Wadsworth | George. | |
| Wang | Nancy | Mingfeng. |
| Wang | Chien | Nan. |
| Weissmahr | Joseph | A. |
| Whiddon | Roy | L. |
| Wilnai | Yael. | |
| Wixom | Mi | Son. |
| Wright | Maurice | Lynn. |
| Wright | Ian | G. |
| Yu | James | Shawwu. |

Dated: July 12, 2001.

**Susan Caruso,**

*Compliance, Corr Exam, Section III, Phila. Compliance Service Center.*

[FR Doc. 01–23716 Filed 9–21–01; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice.

**SUMMARY:** This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received

information during the quarter ending December 31, 2000.

| Last name | First name | Middle name |
|---|---|---|
| Adderley | Cameron | Edward. |
| Alharthy | Sanad | Hussein. |
| Allard | Alexander | Ludovic. |
| Bacardi Nee Folk | Leslie | Lee. |
| Bakanauskas | Jeffrey | Arthur. |
| Bamler | Petja | Richard. |
| Bard | Philip | Jeremy. |
| Bauman | John | Ronald. |
| Beaumont | Celine | Regina. |
| Bender | John | Felix. |
| Boersma | Frederick | Lister. |
| Butt | George | Franklin. |
| Campbell | Christian | Tyler. |
| Chartouni | Cameron | Oliver. |
| Chesterton | Glenn | Everest. |
| Cirrea | Juan | C. |
| De Camp | Dominic | Daniel. |
| De Selliers De Moranvil | Carlos | Philippe. |
| Elie | Florence | Georges. |
| Erhardt | Peter | Martin. |
| Farkash | Marina. | |
| Felicio | Ernesto | J. |
| Fondas | Rose | Aline. |
| Good | Pauline | Virginia. |
| Gordon | Lloyd | Grant. |
| Gottlieb | Marina | Georgette. |
| Granic | Marc | Michael. |
| Green | George | Garlan. |
| Guenther | Karin | Elisabeth. |
| Hoi | Daniel. | |
| Ibarguen | Carlos | Javier. |
| Jackson | Sidney | Patrick. |
| Jakobsen, Nee Jepsen | Jyette | Johanne. |
| Kaercher | Sarita | Yasmine. |
| Kitchen | Douglas | Alan. |
| Lesko | Karina | Maria. |
| Lui | Alexander | Yiu-Nah. |
| Maas | Daniel | Benjamin. |
| Mankarios | Jamileh | Mina. |
| Mann | Susan | W. |
| McNamer | John | Mark. |
| Nagy-Kiszelly | Anthony | George. |
| Ngwal | Ngirataoch | Nick. |
| Nolder | Gerlinde | Theresia. |
| Nottage Nee Clepper | Lillian | Opal. |
| Pelech | Lois | Ellen. |
| Petersen, Nee Williams | Karen | Eunice. |
| Pluppins | Shirley | Joanne. |
| Rashad El Houssy | Bahaa | M. |
| Roberts | David | J. |
| Rosales | Christina | L. |
| Rossy-Quinones | Nicolas. | |
| Sands | Robert | Dallen. |
| Savitsky | Renate | Siglinde. |
| Schmid-De Gruneck | Sophie | Gabrielle. |
| Schmidt | Lajos. | |
| Sepulveda-Urrejola | Linda | Jane. |
| Shahmoon | Edmund | Ronnie. |
| Shahmoon | Ephraim. | |
| Siqueland | Erik | Herman. |
| Spalding | Edward | Sommers. |
| Tolstoy | Paul. | |
| Trott | Nathaniel | Reeve. |
| Wang | Vincent | Antonio. |
| Wasile | Elyse | Remsen. |
| Winz | Anita | Ellen. |
| Wyatt III | Oscar | Sherman. |
| Zeev | Nissim | Mordechai. |
| Zuill | Virginia | Graham. |

Approved: February 10, 2001.

**Doug Rogers,**

*Compliance Area 15, Small Business/Self Employed, Territory 3 (Support).*

[FR Doc. 01–23717 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice

**SUMMARY:** This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending March 31, 2001.

| Last name | First name | Middle name |
|---|---|---|
| Achini | Christoph | Clarence. |
| Adamson | Vincent | Roy. |
| Adda | Gavin | Jacques Elie. |
| Alfoldi | Claudia | Wilma. |
| Allard | Emogan. | |
| Ankeny | Eugene | Elliot. |
| Arnold | Wade. | |
| Baerz (Kaser) | Helga | Paula. |
| Balayan | Aram | Walter. |
| Barbey | Lila. | |
| Barry IV | Richard | Francis. |
| Battig | Marie. | |
| Becsey | Lorand | Steven. |
| Beguin-Austin | Margaret. | |
| Bekkelund | Elin. | |
| Benz | Hanspeter. | |
| Beswick | Anthony | J. |
| Bigos | Hannelore | Luzia. |
| Bohn-Klingerhoeller | Monique | Rita. |
| Bollinger | Heidi. | |
| Brandt Jr | Berkeley. | |
| Braun | Evelyn | Susan Kern. |
| Brown Tarin | Silvestre | Gustavo. |
| Browne | Chedmond | Ralford Ian. |
| Callahan | Brain | Tobey. |
| Callahan | Mikell | Kathryn. |
| Carter | Shannon | Renee. |
| Cha | Laura | May Lung. |
| Chambers | Russell | C. |
| Chan | Grace | Ling. |
| Clements | Janice | Ablerta. |
| Coleman | Harriet | Suzanne. |
| Cota Moreno | Federico. | |
| Dahl | Eleanor | Alice. |
| Dansereau | Blanche. | |
| DeSelliers DeMoran | Virginie.. | |
| De Tymoeski | Jean-Paul. | |
| De Tymowski | Paulette Andree.. | |
| Del Solar | Carlos. | |
| Demarsico | Michelle. | |
| Dennig | Gerald | Froemke. |
| Diaz | Arjuna. | |
| Draper | Lois | Ellen. |
| Draper | Richard | Paul. |
| Eaton-Clarke | Naomi. | |
| Eckert | Jan | Grafton. |
| El Yassir | Saado | Mahmoud. |
| Elliott | Takayo | Narazaki |
| Esteve Jr | Joachim | Jose |
| Estrada | Teresita | de Jesus Peru. |
| Everard | Marcus. | |
| Fall | Delmar | Alexandra. |
| Farfan | Mirna | D. |
| Fatzer | Philippe | Marc. |
| Faulkner | Sheryl | Anne. |
| Feezell | Michael | Lee. |
| Feldmann | Anick. | |
| Fernandez Almada | Luis | Simeon. |
| Fisher | David. | |
| Fleig | Randall | Stephen. |
| Frei | Katharina | Barbara. |

| Last name | First name | Middle name |
|---|---|---|
| Furman | Emily | Hanna. |
| Gaitan-Palacios | Gladys. | |
| Gandy | Mary. | |
| Garnett | Clark | Gordon. |
| Gaum | Kurt | Rudolf. |
| George | David | Charles. |
| Gillery | Scott | Murray. |
| Gottschalk | Carl. | |
| Grauke | Michael | Joey. |
| Grauke | Jutta | Christina. |
| Green | Alan. | |
| Green | Alexandra | Ellen. |
| Grond | Adrian | Stuart |
| Guillen | Mike | Mario. |
| Harley | Olivia | Millicent. |
| Harris | Haruko. | |
| Havardstun | Rachel | Renee. |
| Heinze | Wendy. | |
| Hill | Colin. | |
| Hilscher | Kurt | Frederick. |
| Hite | Shere. | |
| Hoffenberg | Jennings. | |
| Honjo | Masahiro. | |
| Houry | Nada | M |
| Hsu | Kenneth | Jinghwa. |
| Hu | Wendell | K. |
| Hudson | Fraklin | N. |
| Huebner | Anthony. | |
| Isler | Mark | C. |
| Isler | Jacques | Armand Rudolf. |
| Janson | Nicolas | Xavier. |
| Janson | Perrine | Anne. |
| Jensen | Peter | Albert. |
| Jolles | Alexander | Pau. |
| Josselson | Diana. | |
| Kaegi | Kathrin | Suzanne. |
| Keiser | Emma. | |
| Ketterer | Edward. | |
| King | James | Nicholas. |
| Kohn | Sandra | Mirriam. |
| Kooger | Howard | Jan. |
| Krasner | Alexander. | |
| Kronau | Sandra | Patricia. |
| Kuprecht | Andrea | Caroline. |
| Kwok | Peter | Viem. |
| Ladd | Karen. | |
| Lambelet | John | C. |
| Langlois | Patrick. | |
| Laukhardt | Helma | Katharina. |
| Lee | Siew | Lian. |
| Lergessner (Gillery) | Jennifer | Lynn. |
| Leuthold | Kristian | Oliver. |
| Levine | Abbey | Barbara. |
| Lezama | Daniel | Alberto. |
| Li | Ming | Lun. |
| Li | Shinyi | Alice. |
| Liem | Kathleen | C. |
| Lind | Gary. | |
| Lo | Fu-Chen. | |
| Lo | Benjamin | Man-Chuen. |
| Loh | Walter. | |
| Loughlin | John | Joseph. |
| MacLeod | Laila. | |
| Manzano | Irma | Patricia. |
| Mattille | Patricia | Stella Lela. |
| Mc Adam | Agnes | Wray. |
| Mc Dermott | Terance | Stephen. |
| McVie | Anne | Christine. |
| Meisterhans | Tatiana | Christina. |
| Meyer | Daina | Brigitte. |
| Miescher | Nicole | Karen. |
| Mikton | Barbara | Kaethy. |
| Miller | Marie-Louise. | |
| Mobius | Joseph | Benhard Mark. |

| Last name | First name | Middle name |
|---|---|---|
| Mortimer | Lois | Helen Jean. |
| Murphy | James | Schofield. |
| Nam (Cruz) | Hae | Suk. |
| Narlock de Madiedo | Susan | Marie. |
| Narlock de Madiedo | Susan | Marie. |
| Neiman | Dorothy | Edna. |
| Ng | Shelly. | |
| Noon | Ruxana. | |
| Nordin | Brit-Inger. | |
| Ojjeh | Kathleen | Marie. |
| Okawara | Kiyomi. | |
| Okawara | Shige-Hisa. | |
| Ong | Freda | Yen Leng. |
| Ottman | Richard | Walter. |
| Owen | Philip. | |
| Paglieri | Diego. | |
| Pardo De Leygonier | Daine | Carmela. |
| Pardo de Leygonier | Christiane | Helen. |
| Peabody | Terrence | Elmore. |
| Pereyra | Laura | Estela. |
| Peterson | Thomas | Emery. |
| Phillips | Helen | Marie. |
| Pluer | Margrit | F. |
| Poedjosoedarmo | Gloria | Risser. |
| Prashker | Joseph | N. |
| Price | Debra | Gail. |
| Pua | My | Linh Nguyen. |
| Randall | Gabriella | Maria. |
| Rarey | Daniel | John. |
| Ratte | Robin. | |
| Raudales | Marco | Antonio. |
| Roberts | Linda | R. |
| Robinson | Patricia | Juanita. |
| Rountree | Patrick | Robert. |
| Rudolph | Michael | Urs. |
| Said | Dalia. | |
| Sapp | Leander | John Rene. |
| Sauvageot | Liselotte | Marie. |
| Sauvageot | Gerard | Albert. |
| Sawyer | Melvyn | Lloyd. |
| Scheele | Irmela | Mariette. |
| Schein | Eva | Elisabeth. |
| Schmid | Peter | Hans. |
| Schoch | Lorenz | Robert. |
| Scotoni | Ralph | Tertius. |
| Seltzer | Michael | Rogers. |
| Shank Jr | James | Martin. |
| Shin | Young | Mi. |
| Shuang | Linn | Chun. |
| Sicre | Penn | Lussier. |
| Sigg | Wilma. | |
| Sim | Richard | Guild. |
| Smith-Vaughan | Arthur | Henry. |
| So | Madeleine | Jane Adamos. |
| Sommerfeld | Ligia. | |
| Sommerfeld | Norberto. | |
| Sonrier | Jill | Renee. |
| Soon | Benjamin | Teng Tze. |
| Spindler | Annelore. | |
| Spindler | Manfred. | |
| Stearns Hermann | Dorothee | E. |
| Stewart | Calvin | Mark. |
| Stewart | Karless | Nels. |
| Stokes | Virgil | Pierce. |
| Streit | Ernst | Ehrenfried. |
| Stronks | Terry | Richard. |
| Szegedi | Irmgard | Melinda. |
| Tatlow | Harry | Lloyd. |
| Thorbecke | Andreas | Heinrich. |
| Timmons | Philip | Ray. |
| Tolstoy | Paul. | |
| Toraason | John | Duxbury. |
| Tschudin | Marie-France. | |
| Ulehla | Ladislav. | |

| Last name | First name | Middle name |
|---|---|---|
| Valfells | Jon. | |
| Vazquez | Ma. Victori | Madrigal. |
| Vernhes-Rappaz | Sonia | Martine. |
| Von Susani | Odorico | Nikolaus. |
| Vourecas-Petalas | Isabella. | |
| Wadsworth | George. | |
| Waibel | Stephanie. | |
| Walsh | Frances. | |
| Wang | Soo | Yun |
| West | Charlotte. | |
| White | Peter | Benjamin. |
| Wilmanns | Johan. | |
| Winther | Boy | Johannes Ferdinand. |
| Work | William | Randall. |
| Wu | Michael | Wei-Kuo. |
| Yau | David | Tak Cheung. |

Dated: April 12, 2001.

**Doug Rogers,**

*Compliance Area 15, Small Business/Self-Employed, Territory 3 (Support).*

[FR Doc. 01–23718 Filed 9–21–01; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### VA Claims Processing Task Force; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that an open meeting of the VA Claims Processing Task Force will take place on Wednesday, October 3, 2001. The meeting will take place in Room 230 at the VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The purpose of the Task Force is to provide the Secretary of Veterans Affairs with recommendations to reduce claims processing time and shrink the claims backlog without compromising either the accuracy of decisions or service to veterans.

The October 3, 2001, meeting will convene at 8 a.m. and adjourn after the Task Force has completed discussion on potential recommendations that may improve VA's ability to process claims. The meeting is open to the public and interested persons are advised that there will be no time made available for public comment.

Persons who wish to provide written comment to the Task Force should ensure that their remarks are delivered to Mr. John O'Hara, Designated Federal Official, VA Claims Processing Task Force, c/o VA Office of Policy and Planning, Department of Veterans Affairs, 810 Vermont Avenue, NW. (008), Washington, DC 20420 not later than close of business, Tuesday, October 2, 2001.

Dated: September 17, 2001.

By direction of the Secretary.

**Nora E. Egan,**

*Committee Management Officer.*

[FR Doc. 01–23799 Filed 9–21–01; 8:45 am]

**BILLING CODE 8320–01–M**

Federal Register

Monday,
September 24, 2001

# Part II

# Department of the Treasury

## Community Development Financial Institutions Fund

## Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Programs: Core and Intermediary Components; Small and Emerging CDFI Assistance (SECA) Component; Native American CDFI Technical Assistance (NACTA) Component; and Bank Enterprise Award Program; Notices

## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

### Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Program—Core and Intermediary Components

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Notice of funds availability (NOFA) inviting applications for the FY 2002 funding round of the core and intermediary components of the Community Development Financial Institutions Program.

**SUMMARY:** The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) (the ''Act'') authorizes the Community Development Financial Institutions Fund (the ''Fund'') of the U.S. Department of the Treasury to select and provide financial and technical assistance to eligible applicants under the Community Development Financial Institutions (''CDFI'') Program. The interim rule (12 CFR part 1805), most recently published in the **Federal Register** on August 14, 2000 (65 FR 49642), provides guidance on the contents of the necessary application materials, evaluation criteria and other program requirements. More detailed application content requirements are found in the application packet related to this NOFA. While the Fund encourages applicants to review the interim rule, all of the application content requirements and the evaluation criteria contained in the interim rule are also contained in the application packet.

This NOFA is issued in connection with the Core and Intermediary Components of the CDFI Program. The Core Component provides financial assistance and technical assistance (''TA'') to CDFIs that serve their target markets through loans, investments, financial services and other activities. The Intermediary Component provides financial assistance and TA to CDFIs that provide financing primarily to other CDFIs and/or to support the formation of CDFIs. For Fiscal Year 2002, the Fund is combining the Core and Intermediary Component NOFAs into one funding round.

Published elsewhere in this issue of the **Federal Register** are (i) The Fund's NOFA for the Small and Emerging CDFI Assistance (''SECA'') Component of the CDFI Program, through which CDFIs may apply for TA awards and Small and Emerging CDFIs, as hereafter defined, may apply directly to the Fund for financial assistance and TA awards, (ii) the Fund's NOFA for the Native American CDFI Technical Assistance (''NACTA'') Component of the CDFI Program, through which organizations that serve or wish to serve Native American communities through the provision of loans, investments and financial services, may apply directly to the Fund for TA awards; and (iii) the Fund's NOFA for the Bank Enterprise Award (''BEA'') Program, through which the Fund offers financial incentives to insured depository institutions for the purpose of promoting investments in, or other support to, CDFIs and facilitating increased lending and provision of financial and other services in economically distressed communities. In addition, the Fund expects to issue, at a later date, a Notice of Allocation Availability (''NOAA'') for the New Markets Tax Credit (''NMTC'') Program, inviting applications from eligible entities for allocations of tax credits. As set forth in the Fund's Guidance, published in the **Federal Register** on May 1, 2001 at 66 FR 21846, the NMTC Program will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities.

Although an applicant may apply for an award through the Core/Intermediary Component and the SECA Component, it may only receive an award under one of those two Components. If an applicant applies for an award through the Core/Intermediary Component and the SECA Component, the Fund reserves the right to decide, in its sole discretion, under which Component, if any, an award may be made. While an applicant may receive only one award under either the Core/Intermediary Component or the SECA Component, an applicant, its subsidiaries or Affiliates may apply for and receive both a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component or the SECA Component.

An entity that is a NACTA Component Category 1 entity (as that term is defined in the NACTA NOFA) may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component, but may only receive an award under one of those three Components. An applicant that is a NACTA Component Category 2 or Category 3 entity (as those terms are defined in the NACTA NOFA) may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component and may receive an award under the NACTA Component and either the Core/Intermediary Component or the SECA Component, provided that the respective applications propose and seek funding for different activities. While a NACTA Component Category 1 entity may receive only one award under the Core/Intermediary Component, the SECA Component, or the NACTA Component, said entity, its subsidiaries or Affiliates also may apply for and receive a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component, the SECA Component, or the NACTA Component.

Subject to funding availability, the Fund expects that it may award approximately $36.9 million in appropriated funds under this Core and Intermediary Components NOFA. The Fund reserves the right to award in excess of $36.9 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. The Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA.

**DATES:** Applications may be submitted at any time, commencing September 24, 2001. The deadline for an application is 5 p.m. EST on December 11, 2001. Applications received in the specific Bureau of the Public Debt—Franchise Services (BPD) office designated below after that date and time will be rejected and returned to the sender, except as follows. An application mailed via the United States Postal Service will be considered as having met the application deadline if it is clearly postmarked on or before midnight December 10, 2001. An application sent by overnight/express delivery will be considered as having met the application deadline if it is placed in transit with an overnight/express delivery service by no later than December 10, 2001. An application that is hand carried will be considered as having met the application deadline if it is received in the specific BPD office designated below by 5 p.m. EST on December 11, 2001. In each case, it is advisable to obtain documentation from the carrier showing the date and time the application was placed in transit or hand-delivered, as the case may be. A single, clear date and time stamp will help in determining whether the delivery of an application has met the deadline requirements set forth above.

Applications sent by facsimile will not be accepted; applications sent electronically or by e-mail will be accepted only as set forth below.

*Demonstration Project: Electronic Submission of Applications:* For purposes of this NOFA only, applicants are invited to participate in a pilot demonstration project to test the efficiency and efficacy of the Fund's new electronic application form. For this demonstration project, a limited number of applicants will be asked to complete and submit both a paper and an electronic application, in the formats prescribed by the Fund. If your organization is interested in learning more about this demonstration project, please (i) Visit *www.treas.gov/cdfi* for more information and (ii) e-mail the Fund at *cdfihelp@cdfi.treas.gov* (with the subject line: ''electronic application'') within 30 days of this NOFA to submit your organization's name (and a point of contact) as a prospective demonstration project participant, whereupon the Fund will contact you to inform you whether your organization has been selected to participate in the demonstration project. Participation in the demonstration project is in no way indicative of the likelihood of an applicant's success in being selected for an award under this NOFA. The Fund will accept electronic submission of applications only as described in this Section.

**ADDRESSES:** Applications shall be sent to: CDFI Fund Awards Manager, Bureau of Public Debt—Franchising, 200 Third Street, Room 211, Parkersburg, WV 26101. Applications will not be accepted at the Fund's offices.

**FOR FURTHER INFORMATION CONTACT:** If you have any questions about the programmatic requirements for this program, contact the Fund's CDFI Program Manager. If you wish to request an application package or have questions regarding application procedures, contact the Fund's Awards Manager. The CDFI Program Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov,* by telephone at (202) 622–8662, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's web site at *www.treas.gov/cdfi.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Credit and investment capital are essential ingredients for developing affordable housing, starting or expanding businesses, meeting unmet market needs, and stimulating economic growth. Access to financial services is critical to helping bring more Americans into the economic mainstream. The CDFI Program funds and supports financial institutions around the country that are specifically dedicated to financing and supporting community development activities. This strategy builds strong institutions that make loans and investments and provide financial services to markets (including economically distressed investment areas and disadvantaged targeted populations) whose needs for loans, investments, and financial services have not been fully met by traditional financial institutions.

This NOFA covers the Fiscal Year 2002 round of the Core and Intermediary Components of the CDFI Program and invites CDFIs and CDFI Intermediaries to submit applications for financial assistance and TA awards for the purpose of serving their target markets through the provision of loans, investments and financial services.

The Core Component provides assistance to CDFIs that directly serve their target markets through loans, investments and other activities, not including the financing of other CDFIs.

The Intermediary Component provides financial assistance and TA to CDFIs that provide financing primarily to other CDFIs and/or to support the formation of CDFIs. The Fund believes that providing financial assistance and/or TA to such intermediaries can be an effective way to enhance its support of the CDFI industry by reaching CDFIs that the Fund itself cannot reach as effectively under the Core Component. In particular, the Fund wishes to support the activities of those CDFI Intermediaries that provide financing, Development Services, and other support to Small and Emerging CDFIs and other CDFIs or CDFIs in formation that have not received assistance from the CDFI Fund. With respect to an entity that is not a depository institution holding company or an insured depository institution, a Small and Emerging CDFI is one that (i) possesses total assets of $5 million or less as of the last day of its most recent fiscal year that ended prior to January 1, 2002, and (ii) prior to the date of the application by the CDFI Intermediary under this NOFA or the date of the application of the Small and Emerging CDFI under the SECA NOFA, has never been selected to receive financial assistance under the CDFI Program. With respect to an applicant that is a depository institution holding company or an insured depository institution, a Small and Emerging CDFI is one that (i) prior to the date of the application by the CDFI Intermediary under this NOFA or the date of application of the Small and Emerging CDFI under the SECA NOFA, has never been selected to receive financial assistance under the CDFI Program, and (ii) received its original charter from the appropriate regulatory agency no more than three years prior to the date of this NOFA. This NOFA is not intended and should not be construed to allow an applicant to file a joint application on behalf of a group of other CDFIs, but rather to provide financial assistance and TA to intermediaries that provide financing, in arms-length transactions, to other CDFIs and/or support the formation of CDFIs.

Under this NOFA, the Fund anticipates a maximum award amount of $2.0 million per applicant. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of the anticipated maximum award amount if the Fund deems it appropriate.

Previous awardees under the CDFI Program are eligible to apply under this NOFA, but such applicants must be aware that success in a previous round should not be considered indicative of success under this NOFA. In addition, organizations will not be penalized for having received awards in previous funding rounds, except to the extent that: (1) The Fund is generally prohibited from obligating more than $5 million in assistance, in the aggregate, to any one organization and its Subsidiaries and Affiliates during a three-year period (further guidance on the calculation of the $5 million cap is available on the Fund's website at *www.treas.gov/cdfi*); or (2) an applicant that is a previous Fund awardee under any other Fund program or component of the CDFI Program has failed to meet its reporting requirements, performance goals, financial soundness covenants (if applicable) and/or other requirements contained in the previously executed assistance or award agreement(s). Moreover, the Fund may, in its sole discretion, withhold or suspend making disbursements to an applicant, selected to receive an award under this NOFA, that either is a previous Fund awardee or whose Affiliate(s) is a previous Fund awardee under any other Fund program or component of the CDFI Program, if the applicant or its Affiliate(s) has failed to comply with any term, agreement, covenant or condition contained in or

referenced in any previous Fund assistance or award agreement. The Fund generally will commence or resume making disbursements to such applicant upon the applicant's or its Affiliate's subsequent compliance.

**II. Eligibility**

The Act and the interim rule specify the eligibility requirements that each applicant must meet in order to be eligible to apply for assistance under this NOFA. At the time an entity submits its application, the entity must be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. An entity must meet, or propose to meet, the Fund's CDFI certification requirements, as set forth in the Act and the interim rule. In general, an applicant, individually and collectively with its Affiliates, must have a primary mission of promoting community development. In addition, the applicant must: Be an insured depository institution, a depository institution holding company or an insured credit union; provide lending or equity investments; serve an investment area or a targeted population; provide development services; maintain community accountability; and be a non-government entity. If an applicant is a depository institution holding company or an Affiliate of a depository institution holding company, the applicant individually and collectively with its Affiliates must meet all of the aforementioned requirements.

For purposes of determining whether or not an applicant is serving an eligible Investment Area, the Fund will continue to use 1990 Census data, as 2000 Census data will not be available in sufficient detail for use under this NOFA.

As explained in the application packet, applicants seeking to designate an ''Other Targeted Population'' must provide a brief analytical narrative with information demonstrating that the designated group of individuals in the applicant's service area lacks adequate access to loans, Equity Investments or Financial Services. This narrative requirement does not apply to applicants serving an Other Targeted Population composed of Blacks or African Americans, Native Americans or American Indians, or Hispanics or Latinos, on a national service level. In addition, for purposes of this NOFA, the Fund has determined that credible evidence exists that Alaska Natives residing in Alaska and Native Hawaiians or Other Pacific Islanders residing in Hawaii or other Pacific Islands lack adequate access to loans, Equity Investments or Financial Services. To the extent that an applicant is serving such population(s), it is not required to provide the analytical narrative describing these populations' unmet loan, Equity Investment or Financial Services needs.

For purposes of this NOFA, the Fund will use the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997):

(a) American Indian, Native American or Alaska Native: a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment;

(b) Black or African American: a person having origins in any of the black racial groups of Africa (terms such as ''Haitian'' or ''Negro'' can be used in addition to ''Black or African American'');

(c) Hispanic or Latino: a person of Cuban, Mexican, or Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race (the term ''Spanish origin'' can be used in addition to ''Hispanic or Latino''); and

(d) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

For further detail, please visit the Fund's website at *www.treas.gov/cdfi,* under Certification/Supplemental Information.

In the case of a CDFI Intermediary applicant whose total activities are principally directed toward serving certified CDFIs, the Fund will assume that the applicant principally serves eligible Target Markets. Such an applicant need only specify the service area in which its certified CDFI clients are located (e.g., names of cities, counties, states, or national). In the case of an applicant whose total activities are not principally directed toward serving certified CDFIs, the applicant must provide information on how it determines that its total activities are principally directed toward organizations principally serving eligible Target Markets, such as requiring a minimum level of activity within Target Markets, or other means.

If the applicant does not meet the CDFI certification requirements, the application shall include a realistic plan for the applicant to meet the certification criteria by December 31, 2003. In no event will the Fund disburse financial assistance and/or TA to the applicant until the applicant is certified as a CDFI. Further details regarding certification, eligibility and other program requirements are found in the application packet.

**III. Types of Assistance**

An applicant may submit an application for financial assistance, TA, or both, under this NOFA. Financial assistance may be provided through an equity investment (including, in the case of certain insured credit unions, secondary capital accounts), a grant, loan, deposit, credit union shares, or any combination thereof. Applicants for financial assistance shall indicate the dollar amount, form, and terms and conditions of the assistance requested. Applicants for TA under this NOFA shall describe the type(s) of TA requested, when the TA will be acquired, the provider(s) of the TA, the cost of the TA, and a narrative explanation of how the TA will enhance their community development impact.

**IV. Application Packet**

An applicant under this NOFA, whether applying for financial assistance, TA, or both, must submit the materials described in the application packet.

**V. Matching Funds**

Applicants responding to this NOFA must obtain matching funds from sources other than the Federal government on the basis of not less than one dollar for each dollar of financial assistance provided by the Fund (matching funds are not required for TA). Matching funds must be at least comparable in form and value to the financial assistance provided by the Fund. Non-Federal funds obtained or legally committed on or after January 1, 2001, and before December 31, 2003, may be considered when determining matching funds availability. The Fund reserves the right to recapture and reprogram funds if an applicant fails to raise the required matching funds by December 31, 2003, or to grant an extension of such matching funds deadline for specific applicants selected for assistance, if the Fund deems it appropriate. Funds used by an applicant as matching funds for a previous award under the CDFI Program or under another Federal grant or award program cannot be used to satisfy the matching funds requirement. If an applicant seeks to use as matching funds monies received from an organization that was a previous awardee under the CDFI Program, the Fund will deem such funds to be Federal funds, unless the funding entity establishes to the reasonable satisfaction of the Fund, that

such funds do not consist, in whole or in part, of CDFI Program funds or other Federal funds.

**VI. Evaluation**

All applications will be reviewed for eligibility and completeness. If determined to be eligible and complete, applications will be evaluated by the Fund on a competitive basis in accordance with the criteria described in this NOFA. In conducting its substantive review, the Fund will evaluate each application and assign numeric scores related to:

(1) The applicant s ability to carry out its Comprehensive Business Plan and create community development impact (the Ability Criterion);

(2) The quality of the applicant s strategy for carrying out its Comprehensive Business Plan and for creating community development impact (the Strategy Criterion); and

(3) The extent to which an award to the applicant will maximize the effective use of the Fund's resources (the Effective Use Criterion).

In addition, the Fund may consider the institutional and geographic diversity of applicants in making its funding determinations.

*Phase One*

In Phase One of the substantive review, each Fund reader(s) will evaluate applications using a 100 point scale, as follows:

(a) The Ability Criterion (the applicant's ability to carry out its Comprehensive Business Plan and create community development impact): 50 point maximum, with a minimum score of 25 points required to be passed on for Phase Two review. The score of the Ability Criterion is based on a composite assessment of an applicant's organizational strengths and weaknesses under the four sub-criteria listed below. Such scoring reflects different weighting of the sub-criteria depending on whether an applicant is a start-up organization or an established organization. The Fund defines a start-up organization as an entity that has been in operation two years or less as of the date of this NOFA (meaning, for purposes of this NOFA, having incurred initial operating expenses on or after September 24, 1999).

Under the Ability Criterion, the Fund will evaluate the following four sub-criteria:

(1) Community development track record, including (for CDFI Intermediary applicants) activities and impacts relating to both Small and Emerging CDFIs and CDFIs that have not received assistance from the Fund: 12 point maximum (established organizations), 5 point maximum (start-ups);

(2) Operational capacity and risk mitigation strategies: 12 point maximum (established organizations), 15 point maximum (start-ups);

(3) Financial track record and strength: 12 point maximum (established organizations), 5 point maximum (start-ups); and

(4) Capacity, skills and experience of the management team: 14 point maximum (established organizations), 25 point maximum (start-ups).

(b) The Strategy Criterion (the quality of the strategy for carrying out the Comprehensive Business Plan and for creating community development impact): 40 point maximum with a minimum of 20 points required to be passed on for Phase Two review. Under the Strategy Criterion, the Fund will evaluate the following four sub-criteria:

(1) The applicant's understanding of its market: 10 point maximum;

(2) Program design and implementation plan: 10 point maximum;

(3) Projections for financial performance and raising needed resources: 10 point maximum; and

(4) Projections for generating, measuring and evaluating community development impact: 10 point maximum.

In the case of an applicant that has previously received assistance from the Fund under the CDFI Program, the Fund will consider whether the applicant will expand its operations into a new target market, offer more products or services, and/or increase the volume of its activities.

(c) The Effective Use Criterion (maximizing effective use of Fund resources): 10 point maximum, with a minimum of 5 points required to be passed on for Phase Two review. The Fund will consider:

(1) The extent to which the applicant needs the Fund's assistance to carry out its Comprehensive Business Plan, including its track record in deploying existing resources;

(2) The extent to which assistance from the Fund will help the applicant attract new or additional resources in support of its community development activities;

(3) The extent of economic distress in the applicant's target market;

(4) Other positive impacts that the Fund's assistance will enable, including development of innovative products and services that would benefit the applicant's Target Market specifically, and underserved markets generally; and

(5) For CDFI Intermediary applicants, the extent to which the applicant's assistance to CDFIs and CDFIs in formation provides additional benefits, especially to Small and Emerging CDFIs, that are not provided by the Fund.

In addition, in the case of an applicant that has previously received assistance from the Fund under the CDFI Program, the Fund will consider:

(1) The applicant's level of success and extent of compliance in meeting its performance goals, financial soundness covenants (if applicable) and other requirements contained in the assistance agreement(s) with the Fund;

(2) The benefits that will be created with new Fund assistance over and above benefits created by previous Fund assistance; and

(3) The extent and effectiveness to which the applicant has used previous assistance from the Fund.

*Phase Two*

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for funding based on the recommendations and scores (standardized if deemed appropriate) received during Phase One review and the amount of funds available. Applicants that advance to Phase Two may receive a site visit and/or telephone interview(s) conducted by a Fund reviewer for the purpose of obtaining clarifying or confirming information. At this point in the process, applicants will be required to submit additional information, as set forth in detail in the application packet. After conducting such site visits/telephone interview(s), the Fund reviewers will evaluate applications based on all the elements outlined in the application, and prepare recommendation memoranda containing recommendations on the type and amount of assistance, if any, that should be provided to each applicant.

A final review panel comprised of senior Fund staff will consider the Fund reviewers' recommendation memoranda and make final recommendations to the Fund's selecting official. In making its recommendations, the final review panel also may consider the institutional diversity and geographic diversity of applicants (*e.g.,* recommending a CDFI from a state in which the Fund has not previously made an award over a CDFI in a state in which the Fund has already made numerous awards).

The Fund's selecting official will make a final funding determination based on the applicant's file, including, without limitation, Phase One and Phase Two reviewer(s) recommendations and the panel's recommendation, the amount of funds

available, and for a prior awardee, the status of its compliance and award disbursements to date. In the case of regulated CDFIs, the selecting official will also take into consideration the views of the appropriate Federal banking agencies. The Fund's selecting official reserves the right to reject any application in the case of a previous Fund awardee that has failed to comply with the terms and conditions of its previous assistance or award agreement(s).

The Fund reserves the right to change these evaluation procedures if the Fund deems it appropriate.

**VII. Information Sessions**

In connection with the Fiscal Year 2002 funding rounds of its programs, the Fund will conduct In-Person Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core, Intermediary, SECA and NACTA Components of the CDFI Program, and the BEA Program. Registration is required, as the In-Person Information Sessions will be held in secured federal facilities. The Fund anticipates conducting up to 17 In-Person Information Sessions, through October 31, 2001, in the following cities: Anchorage, AK; Boston, MA; Chicago, IL; Dallas, TX; Denver, CO; Honolulu, HI; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Philadelphia, PA; Seattle, WA; and Washington, DC.

In addition to the In-Person Information Sessions listed above, the Fund will broadcast a Televideo Information Session, using interactive video-teleconferencing technology, on November 8, 2001 (tentative date), 1:00 p.m. to 4:00 p.m. EST. Registration is required, as the Televideo Information Session will be held in secured federal facilities. The Televideo Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY: Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson, MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

For further information on the Fund's Information Sessions, dates and locations, or to register online for an Information Session, please visit the Fund's website at *www.treas.gov/cdfi.* If you do not have Internet access, you may register by calling the Fund at (202) 622–8662.

Catalog of Federal Domestic Assistance: 21.021.

**Authority:** 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

**Tony Brown,**

*Director, Community Development Financial Institutions Fund.*

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## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

### Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Program—Small and Emerging CDFI Assistance (SECA) Component

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Notice of funds availability (NOFA) inviting applications for the FY 2002 funding round of the SECA component of the Community Development Financial Institution Program.

**SUMMARY:** The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) (the ''Act'') authorizes the Community Development Financial Institutions Fund (the ''Fund'') of the U.S. Department of the Treasury to select and provide financial and technical assistance to eligible applicants under the Community Development Financial Institutions (''CDFI'') Program. The interim rule (12 CFR part 1805), most recently published in the **Federal Register** on August 14, 2000 (65 FR 49642), provides guidance on the contents of the necessary application materials, evaluation criteria, and other program requirements. More detailed application content requirements are found in the application packet related to this NOFA. While the Fund encourages applicants to review the interim rule, all of the application content requirements and the evaluation criteria contained in the interim rule are also contained in the application packet.

This NOFA is issued in connection with the SECA Component of the CDFI Program. The SECA Component provides financial assistance (''FA'') and technical assistance (''TA'') to CDFIs and entities that propose to become CDFIs in order to enhance their capacity to serve their respective target markets, through loans, investments, financial services and other activities. An applicant under the SECA Component also may use TA to build the capacity of an Affiliate if the provision of such TA will directly benefit the primary mission of the applicant and the objectives of its Comprehensive Business Plan.

Published elsewhere in this issue of the **Federal Register** are (i) the Fund's NOFA for the combined Core and Intermediary Components of the CDFI Program, through which CDFIs may apply directly to the Fund for FA and/or TA awards, (ii) the Fund's NOFA for the Native American CDFI Technical Assistance (''NACTA'') Component of the CDFI Program, through which organizations that serve or wish to serve Native American communities through the provision of loans, investments and financial services, may apply directly to the Fund for TA awards; and (iii) the Fund's NOFA for the Bank Enterprise Award (''BEA'') Program, through which the Fund offers financial incentives to insured depository institutions for the purpose of promoting investments in or other support to CDFIs and facilitating increased lending and provision of financial and other services in economically distressed communities. In addition, the Fund expects to issue, at a later date, a Notice of Allocation Availability (''NOAA'') for the New Markets Tax Credit (''NMTC'') Program, inviting applications from eligible entities for allocations of tax credits. As set forth in the Fund's Guidance, published in the **Federal Register** on May 1, 2001 at 66 FR 21846, the NMTC Program will provide an incentive to

investors in the form of a tax credit over seven years, which is expected to stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities.

Although an applicant may apply for an award through the Core/Intermediary Component and the SECA Component, it may only receive an award under one of those two Components. If an applicant applies for an award through the Core/Intermediary Component and the SECA Component, the Fund reserves the right to decide, in its sole discretion, under which Component, if any, an award may be made. While an applicant may receive only one award under either the Core/Intermediary Component or the SECA Component, an applicant, its subsidiaries or Affiliates may apply for and receive both a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component or the SECA Component.

An entity that is a NACTA Component Category 1 entity (as that term is defined in the NACTA NOFA) may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component, but may only receive an award under one of those three Components. An applicant that is a NACTA Component Category 2 or Category 3 entity (as those terms are defined in the NACTA NOFA) may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component and may receive an award under the NACTA Component and either the Core/Intermediary Component or the SECA Component, provided that the respective applications propose and seek funding for different activities. While a NACTA Component Category 1 entity may receive only one award under the Core/Intermediary Component, the SECA Component, or the NACTA Component, said entity, its subsidiaries or Affiliates also may apply for and receive a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component, the SECA Component, or the NACTA Component.

Subject to funding availability, the Fund expects that it may award approximately $5.6 million in appropriated funds under this SECA Component NOFA. The Fund reserves the right to award in excess of $5.6 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. The Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA.

**DATES:** Applications may be submitted at any time, commencing September 24, 2001. The deadline for an application is 5:00 p.m. EST on January 24, 2002. Applications received in the specific Bureau of the Public Debt—Franchise Services (BPD) office designated below after that date and time will be rejected and returned to the sender, except as follows. An application mailed via United States Postal Service will be considered as having met the application deadline if it is clearly postmarked on or before midnight January 23, 2002. An application sent by overnight/express delivery will be considered as having met the application deadline if it is placed in transit with an overnight/express delivery service by no later than January 23, 2002. An application that is hand-carried will be considered as having met the application deadline if it is received in the specific BPD office designated below by 5:00 pm EST on January 24, 2002. In each case, it is advisable to obtain documentation from the carrier showing the date and time the application was placed in transit or hand-delivered, as the case may be. A single, clear date and time stamp will help in determining whether the delivery of an application has met the deadline requirements set forth above. Applications sent by facsimile will not be accepted; applications sent electronically or by e-mail will be accepted only as set forth below.

*Demonstration Project: Electronic Submission of Applications:* For purposes of this NOFA only, applicants are invited to participate in a pilot demonstration project to test the efficiency and efficacy of the Fund's new electronic application form. For this demonstration project, a limited number of applicants will be asked to complete and submit both a paper and an electronic application, in the formats prescribed by the Fund. If your organization is interested in learning more about this demonstration project, please (i) visit *www.treas.gov/cdfi* for more information and (ii) email the Fund at *cdfihelp@cdfi.treas.gov* (with the subject line: ''electronic application'') within 30 days of this NOFA to submit your organization's name (and point of contact) as a prospective demonstration project participant, whereupon the Fund will contact you to inform you whether your organization has been selected to participate in the demonstration project. Participation in the demonstration project is in no way indicative of the likelihood of an applicant's success in being selected for an award under this NOFA. The Fund will accept electronic submission of applications only as described in this Section.

**ADDRESSES:** Applications shall be sent to: CDFI Fund Awards Manager, Bureau of Public Debt—Franchising, 200 Third Street, Room 211, Parkersburg, WV 26101. Applications will not be accepted in the Fund's offices.

**FOR FURTHER INFORMATION CONTACT:** If you have any questions about the programmatic requirements for this program, contact the Fund's SECA Component Program Manager. If you wish to request an application package or have questions regarding application procedures, contact the Fund's Awards Manager. The SECA Component Program Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov,* by telephone at (202) 622–8662, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW, Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's web site at *www.treas.gov/cdfi.*

**SUPPLEMENTARY INFORMATION**

## I. Background

Credit and investment capital are essential ingredients for developing affordable housing, starting or expanding businesses, meeting unmet market needs, and stimulating economic growth. Access to financial services is critical to help bring more Americans into the economic mainstream. The CDFI Program funds and supports financial institutions around the country that are specifically dedicated to financing and supporting community development activities. This strategy builds strong institutions that make loans and investments and provide services to markets (including economically distressed investment areas and disadvantaged targeted populations) whose needs for loans, investments, and financial services have not been met by traditional financial institutions.

This NOFA covers the Fiscal Year 2002 round of the SECA Component of the CDFI Program and invites CDFIs and Small and Emerging CDFIs to submit applications for TA or for Small and Emerging CDFIs to apply for a combination of TA and FA for the

purpose of serving their target markets through the provision of loans, investments, and financial services.

Under this NOFA, the Fund anticipates making a maximum TA award in the amount of $50,000 to any one applicant seeking TA only. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of the anticipated maximum amount of TA if the Fund deems it appropriate. Also, under this NOFA, the Fund anticipates making a maximum FA award in the amount of $150,000. The maximum award available to any one applicant seeking FA and TA under this NOFA will be $200,000. Under the SECA Component, applicants seeking FA must also request TA. Previous awardees of FA under any Component of the CDFI Program are eligible to apply only for TA under this NOFA.

Previous awardees under the CDFI Program are eligible to apply under this NOFA, but such applicants must be aware that success in a previous round should not be considered indicative of success under this NOFA. In addition, organizations will not be penalized for having received awards in previous funding rounds, except to the extent that: (1) The Fund generally is prohibited from obligating more than $5 million in assistance, in the aggregate, to any one organization and its Subsidiaries and Affiliates during a three-year period (further guidance on the calculation of the $5 million cap is available on the Fund's website at *www.treas.gov/cdfi*); or (2) an applicant that is a previous Fund awardee under any other Fund program or component of the CDFI Program has failed to meet its reporting requirements, performance goals, financial soundness covenants (if applicable) and/or other requirements contained in the previously executed assistance or award agreement(s). Moreover, the Fund may, in its sole discretion, withhold or suspend making disbursements to an applicant, selected to receive an award under this NOFA, that either is a previous Fund awardee or whose Affiliate(s) is a previous Fund awardee under any other Fund program or component of the CDFI Program, if the applicant or its Affiliate(s) has failed to comply with any term, agreement, covenant or condition contained in or referenced in any previous Fund assistance or award agreement. The Fund will generally commence or resume making disbursements to such applicant upon the applicant's or its Affiliate's subsequent compliance.

**II. Eligibility**

The Act and the interim rule specify the eligibility requirements that each applicant must meet in order to be eligible to apply for assistance under this NOFA. At the time an entity submits its application, the entity must be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. Also, an entity must meet, or propose to meet, the Fund's CDFI certification eligibility requirements.

If the applicant does not meet the CDFI certification eligibility requirements, the application shall include a realistic plan for the applicant to meet the CDFI certification criteria by January 24, 2004 (the deadline may be extended at the sole discretion of the Fund). In no event will the Fund disburse FA to the applicant until the applicant is certified as a CDFI. The Fund, in its sole discretion, may disburse TA to an applicant prior to its certification as a CDFI in circumstances when, in the judgment of the Fund, said TA will help the applicant meet a certification requirement(s). Further details regarding eligibility and other program requirements are found in the application packet related to this NOFA.

In general, to be certified as a CDFI, an applicant, individually and collectively with its affiliates, must have a primary mission of promoting community development. In addition, the applicant must: be an insured depository institution, a depository institution holding company or an insured credit union; provide loans or equity investments; serve an investment area or a targeted population; provide development services; maintain community accountability; and be a non-governmental entity. If an applicant is a depository institution holding company or an affiliate of a depository institution holding company, the applicant individually and collectively with its affiliates, must meet all of the aforementioned requirements.

For purposes of determining whether or not the applicant is serving an eligible Investment Area, the Fund will continue to use 1990 Census data, since the 2000 Census data will not be available in sufficient detail for use under this NOFA.

As explained in the application packet, applicants seeking to designate an ''Other Targeted Population'' must provide a brief analytical narrative with information demonstrating that the designated group of individuals in the applicant's service area lacks adequate access to loans, Equity Investments or Financial Services. This narrative requirement does not apply to applicants serving an Other Targeted Population composed of Blacks or African Americans, Native Americans or American Indians, or Hispanics or Latinos, on a national service level. In addition, for purposes of this NOFA, the Fund has determined that credible evidence exists that Alaska Natives residing in Alaska and Native Hawaiians or Other Pacific Islanders residing in Hawaii or other Pacific Islands lack adequate access to loans, Equity Investments or Financial Services. To the extent that an applicant is serving such population(s), it is not required to provide the analytical narrative describing these populations' unmet loan, Equity Investment or Financial Services needs.

For purposes of this NOFA, the Fund will use the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997):

(a) American Indian, Native American or Alaska Native: a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment;

(b) Black or African American: a person having origins in any of the black racial groups of Africa (terms such as ''Haitian'' or ''Negro'' can be used in addition to ''Black or African American'');

(c) Hispanic or Latino: a person of Cuban, Mexican, or Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race (the term ''Spanish origin'' can be used in addition to ''Hispanic or Latino''); and

(d) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

For further detail, please visit the Fund's website at *www.treas.gov/cdfi,* under Certification/Supplemental Information.

In addition to the above criteria, there are other eligibility factors for applicants seeking FA and TA under the SECA Component. Applicants for FA and TA (as opposed to TA only under the SECA Component) must be ''Small and Emerging'' entities. With respect to an entity that is not a depository institution holding company or an insured depository institution, a Small and Emerging entity is one that (i) possesses total assets of $5 million or less as of the last day of its most recent fiscal year that ended prior to January 1,

2002, and (ii) prior to the date of application under this NOFA, has never been selected to receive FA under the CDFI Program. With respect to an applicant that is a depository institution holding company or an insured depository institution, a Small and Emerging entity is one that (i) prior to the date of application under this NOFA, has never been selected to receive FA under the CDFI Program, and (ii) received its original charter from the appropriate regulatory agency no more than three years prior to the date of this NOFA.

**III. Types of Assistance**

An applicant under this NOFA may submit an application for a TA grant or for both FA and TA. FA may be provided in the form of an equity investment (including, in the case of certain insured credit unions, secondary capital accounts), a grant, loan, deposit, credit union shares, or any combination thereof. Applicants for FA shall indicate the dollar amount, form, and terms and conditions of the assistance requested. Applicants for TA under this NOFA shall describe the type(s) of TA requested, when the TA will be acquired, the provider(s) of the TA, the cost of the TA, and a narrative explanation of how the TA will enhance their community development impact.

**IV. Application Packet**

An applicant under this NOFA, whether applying for TA or both FA and TA, must submit the materials described in the application packet.

**V. Matching Funds**

Applicants seeking FA under this NOFA must obtain matching funds from sources other than the Federal government on the basis of not less than one dollar for each dollar of FA provided by the Fund (matching funds are not required for TA). Matching funds must be at least comparable in form and value to the FA provided by the Fund. Non-Federal funds obtained or legally committed on or after January 1, 2000, and before December 31, 2003, may be considered when determining matching funds availability. The Fund reserves the right to recapture and reprogram funds if an applicant fails to raise the required matching funds by December 31, 2003, or to grant an extension of such matching funds deadline for specific applicants selected for assistance, if the Fund deems it appropriate. Funds used by an applicant as matching funds for a previous award under the CDFI Program or under another Federal grant or award program cannot be used to satisfy the aforementioned matching funds requirement. If an applicant seeks to use as Matching Funds monies received from an organization that was a previous awardee under the CDFI Program, the Fund will deem such funds to be Federal funds, unless the funding entity establishes to the reasonable satisfaction of the Fund, that such funds do not consist, in whole or in part, of CDFI Program funds or other Federal funds.

**VI. Evaluation**

Applications received will be reviewed for eligibility and completeness. If determined to be eligible and complete, applications will be evaluated by the Fund on a competitive basis in accordance with the criteria described in this NOFA. In conducting its substantive review, the Fund will evaluate applications according to the criteria, and use the procedure described, in this NOFA. In conducting its substantive review, the Fund will evaluate each application and assign numeric scores related to the applicant's Comprehensive Business Plan and Technical Assistance Proposal.

In addition, the Fund may consider the institutional and geographic diversity of applicants in making its funding determinations.

*Phase One*

In Phase One of the substantive review, each Fund reader will evaluate applications on a 100-point scale, using the following criteria and allocation of points:

(a) *Comprehensive Business Plan:* 60 point maximum; with a minimum score of 30 points required to advance to Phase Two review (TA only applicants); or 70 point maximum, with a minimum score of 35 points required to advance to Phase Two review (applicants seeking TA and FA combined). The score for the Comprehensive Business Plan is based on a composite assessment of an applicant's strength and weaknesses under five sub-criteria for TA only applicants and six sub-criteria for those applicants seeking TA and FA. Scoring of the sub-criteria is weighted to reflect whether the applicant is a start-up organization or an established organization. The Fund defines a start-up organization as an entity that has been in operation three years or less, as of the date of this NOFA (meaning, for purposes of this NOFA, having incurred initial operating expenses on or after September 24, 1998).

In reviewing the Comprehensive Business Plan, the Fund will evaluate the following sub-criteria:

(1) Community development track record (established organizations only): 10 point maximum;

(2) Financial and operational capacity: 10 point maximum (established organizations); 4 point maximum (start-ups);

(3) Market analysis, program design and implementation plan, and funding sources: 14 point maximum;

(4) Capacity, skills and experience of the management team: 14-point maximum (established organizations); and 30 point maximum (start-ups);

(5) Projected activities and community development impact: 12 point maximum; and

(6) Financial projections and resources: 10 point maximum (TA only applicants will not be evaluated under this sub-criterion).

In the case of an applicant that has previously received TA from the Fund under the CDFI Program, the Fund will consider whether the applicant will expand its operations into a new target market, offer more products or services, improve the quality of its products and services, and/or increase the volume of its activities. The Fund will consider the applicant's level of success in meeting its reporting requirements, performance goals, financial soundness agreements, and other requirements contained in its existing assistance or award agreement(s) with the Fund, and the benefits that will be created with new Fund assistance over and above benefits created by previous Fund assistance.

(b) *Technical Assistance Proposal (TAP):* 40 point maximum; with a minimum score of 20 points to advance to Phase Two review (TA only applicants); or 30 point maximum with a 15 point minimum to advance to Phase Two review (applicants seeking FA and TA combined). The TAP provides the applicant with an opportunity to address the organizational improvements needed to achieve the objectives of its comprehensive business plan. Such assessment is accompanied by a budget and a TA award request. In the TAP, the applicant should describe how improving its organization will translate to community development impact, particularly within its Target Market. The budget and accompanying narrative will be evaluated for the eligibility of proposed uses of the TA award. Eligible types of TA award uses include, but are not limited to, the following: (1) Acquiring consulting services; (2) paying staff salary for the limited purposes of completing tasks and/or fulfilling functions that are otherwise eligible TA award uses under this NOFA; (3) acquiring/enhancing

technology items; and (4) acquiring training for staff or management. The Fund will not consider requests under this NOFA for expenses that, in the determination of the Fund, are deemed to be ongoing operating expenses rather than non-recurring expenses.

The Fund will consider requests for use of TA to pay for staff salary only when the applicant demonstrates and represents that: the proposed staff time to be paid for by the TA will be used for a non-recurring activity that will build the applicant's capacity to achieve its objectives as set forth in its Comprehensive Business Plan; the proposed capacity-building activity would otherwise be contracted to a consultant or not be undertaken; and the staff person assigned to the proposed task has the competence to successfully complete the activity. This limited use of TA may cover only that portion of a staff person's salary that represents the time that staff person(s) spends on the identified capacity-building activities, but must not exceed 50 percent of said annual salary in a 12-month period, and for a total period not to exceed 24 months. For example, it may be an eligible use of a TA grant to pay the salary of staff assigned the task of updating a market analysis or designing underwriting criteria for a new loan product, when that market analysis or loan product is critical to achieving the objectives of the Comprehensive Business Plan. A TA award may not be used for the cost of employee benefits or overhead expenses or to assist an awardee to prepare an application for funding to the Fund or any other source.

*Phase Two*

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for funding based on the recommendations and scores (standardized if deemed appropriate) received during Phase One review and the amount of funds available. Applicants that advance to Phase Two may receive a site visit and/or telephone interview(s) conducted by a Fund reviewer for the purpose of obtaining clarifying or confirming information. At this point in the process, applicants may be required to submit additional clarifying information about their application in order to assist the Fund with its final evaluation. After conducting such site visit and/or telephone interview(s), Fund reviewers will evaluate applications based on all the elements outlined in the application, and prepare recommendation memoranda containing the type, uses and amount of assistance, if any, that should be provided to each applicant.

The Fund reserves the right, in its sole discretion, to use a review panel comprised of Fund staff to consider each Fund reviewer's recommendation memorandum and make a final recommendation to the Fund's selecting official. The Fund's selecting official will consider the panel's recommendation, if applicable, and the reviewer's recommendation memorandum in order to make the final funding decision. In making the funding decision, the Fund's selecting official also may consider the institutional diversity and geographic diversity of applicants (e.g., selecting a CDFI from a state in which the Fund has not previously made an award over a CDFI in a state in which the Fund has already made several awards).

The Fund's selecting official will make a final funding determination based on the applicant's file, including, without limitation, recommendations of the Phase One and Phase Two reviewers' recommendations and the panel's recommendations, if applicable, the amount of funds available, and, for a prior awardee, the status of its compliance and award disbursements to date. In the case of regulated CDFIs, the selecting official will also take into consideration the views of the appropriate Federal banking agencies. In the case of recommendations for TA awards over $50,000, the Fund will seek to ensure that there is a likelihood of significant community development impact resulting from such awards. The Fund's selecting official reserves the right to reject any application in the case of a previous Fund awardee that has failed to comply with the terms and conditions of its previous assistance or award agreement(s).

The Fund reserves the right to change these evaluation procedures if the Fund deems it appropriate.

**V. Waiver**

The CDFI Program Regulations at 12 C.F.R. §§ 1805.504(d)(4)(i)(A) and 1805.504(d)(4)(i)(B) provide that an applicant that is an Insured Credit Union proposing to meet all or a portion of its matching funds requirements by using retained earnings that have been accumulated since its inception must increase its member and/or non-member shares by an amount that is at least equal to four times the amount of retained earnings that is committed as matching funds within 24 months from September 30 of the calendar year in which the applicable application deadline falls. For purposes of this NOFA, the Fund is waiving said four-fold requirement and will instead require that such an Insured Credit Union applicant must increase its member and/or non-member shares by an amount that is at least equal to *two* times the amount of retained earnings that is being used as matching funds by September 30, 2004. The Fund believes that changing this requirement, for purposes of this SECA Component NOFA, from a four-fold to a two-fold requirement is an appropriate accommodation for Small and Emerging entities.

**VII. Information Sessions**

In connection with the Fiscal Year 2002 funding rounds of its programs, the Fund will conduct In-Person Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core, Intermediary, SECA and NACTA Components of the CDFI Program, and the BEA Program. Registration is required, as the In-Person Information Sessions will be held in secured federal facilities. The Fund anticipates conducting up to 17 In-Person Information Sessions, during the period from September 26 through October 31, 2001, in the following cities: Albuquerque, NM; Anchorage, AK; Atlanta, GA; Billings, MT; Boston, MA; Charleston, WV; Chicago, IL; Denver, CO; Honolulu, HI; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Oklahoma City, OK; Philadelphia, PA; San Antonio, TX; and Seattle, WA.

In addition to the In-Person Information Sessions listed above, the Fund will broadcast a Televideo Information Session, using interactive video-teleconferencing technology, on November 8, 2001 (tentative date), 1:00 p.m. to 4:00 p.m. EST. Registration is required, as the Televideo Information Session will be held in secured federal facilities. The Televideo Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY: Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson,

MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

For further information on the Fund's Information Sessions, dates and locations, or to register online for an Information Session, please visit the Fund's website at *www.treas.gov/cdfi.* If you do not have Internet access, you may register by calling the Fund at (202) 622–8662. Catalog of Federal Domestic Assistance: 21.021

**Authority:** 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

**Tony Brown,**

*Director, Community Development Financial Institutions Fund.*

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## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

### Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Program—Native American CDFI Technical Assistance (NACTA) Component

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Notice of funds availability (NOFA) inviting applications for the FY 2002 funding round of the NACTA component of the Community Development Financial Institutions Program.

**SUMMARY:** The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. §§ 4701 *et seq.*) (the ''1994 Act'') authorizes the Community Development Financial Institutions Fund (the ''Fund'') of the U.S. Department of the Treasury to select and provide technical assistance (''TA'') to eligible applicants under the Community Development Financial Institutions (''CDFI'') Program. Further, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 (P.L. 106–377) authorizes the Fund to provide TA to promote economic development in Native American and Alaska Native communities by creating new CDFIs or building the capacity of existing CDFIs that serve Native American or Alaska Native communities. This NOFA and the interim rule (12 CFR part 1805), most recently revised and published in the **Federal Register** on August 14, 2000 (65 FR 49642), provide guidance on the contents of necessary application materials, evaluation criteria, and other program requirements. More detailed application content requirements are found in the application packet related to this NOFA. While the Fund encourages applicants to review the interim rule, all of the application content requirements and the evaluation criteria contained in the interim rule are also contained in the application packet.

This NOFA is issued in connection with the NACTA Component of the CDFI Program. The NACTA Component provides TA to three categories of entities that propose to build the capacity of or establish a new CDFI(s) that will serve a Native American or Alaska Native population(s):

(i) *Category 1:* CDFIs That Primarily Serve Native American or Alaska Native Populations: Fund-certified CDFIs or other entities that propose to become Fund-certified CDFIs (i.e., qualified community development lenders, for purposes of this NOFA) that primarily serve Native American or Alaska Native communities;

(ii) *Category 2:* Tribes, Tribal Entities, or Non-Profit Organizations That Primarily Serve Native American or Alaska Native Populations: (a) Tribes, Tribal entities, Alaska Native Villages, Village Corporations, Regional Corporations, Non-Profit Regional Corporations/Associations, or Inter-Tribal or Inter-Village organizations; or (b) non-profit community organizations engaged in related activities, including but not limited to: community development corporations (CDCs), training or educational organizations, Tribally-Controlled Community Colleges, Chambers of Commerce, or Urban Indian Centers that serve primarily a Native American or Alaska Native community; and

(iii) *Category 3:* TA Providers or Other Suitable Providers: (a) TA Providers including firms that provide training or TA in community development finance or that specialize in economic development in Native American or Alaska Native communities, or (b) other suitable providers, as defined by the Fund, that include, but are not limited to: CDCs, certified CDFIs, organizations with experience and expertise in banking and lending in Native American or Alaska Native communities.

Published elsewhere in this issue of the **Federal Register** are (i) the Fund's NOFA for the combined Core and Intermediary Components of the CDFI Program, through which CDFIs may apply directly to the Fund for Financial Assistance (FA) and/or TA awards; (ii) the Fund's NOFA for the Small and Emerging CDFI Assistance (''SECA'') Component of the CDFI Program, through which Small and Emerging CDFIs, as therein defined, may apply directly to the Fund for FA and/or TA awards; and (iii) the Fund's NOFA for the Bank Enterprise Award (''BEA'') Program, through which the Fund offers financial incentives to insured depository institutions for the purpose of promoting investments in or other support to CDFIs and facilitating increased lending and provision of financial and other services in economically distressed communities. In addition, the Fund expects to issue, at a later date, a Notice of Allocation Availability (''NOAA'') for the New Markets Tax Credit (''NMTC'') Program, inviting applications from eligible entities for allocations of tax credits. As set forth in the Fund's Guidance, published in the **Federal Register** on May 1, 2001 at 66 FR 21846, the NMTC Program will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities.

An entity that is a NACTA Component Category 1 entity may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component, but may only receive an award under one of those three Components. An applicant that is a NACTA Component Category 2 or Category 3 entity may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component and may receive an award under the NACTA Component and either the Core/Intermediary Component or the SECA Component, provided that the respective applications propose and seek funding for different activities. While a NACTA Component Category 1 entity may receive only one award

under the Core/Intermediary Component, the SECA Component, or the NACTA Component, said entity, its subsidiaries or Affiliates also may apply for and receive a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component, the SECA Component, or the NACTA Component.

Subject to funding availability, the Fund expects that it may award up to $43.5 million in appropriated funds under this NACTA Component NOFA. The Fund reserves the right to award in excess of $3.5 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. The Fund reserves the right to fund, in whole or in part any, all or none of the applications submitted in response to this NOFA.

**DATES:** Applications may be submitted at any time, commencing September 24, 2001. The deadline for an application is 5 p.m. EST on January 24, 2002. Applications received in the specific Bureau of the Public Debt—Franchise Services (BPD) office designated below after that date and time will be rejected and returned to the sender, except as follows. An application mailed via United States Postal Service will be considered as having met the application deadline if it is clearly postmarked on or before midnight January 23, 2002. An application sent by overnight/express delivery will be considered as having met the application deadline if it is placed in transit with an overnight/express delivery service by no later than January 23, 2002. An application that is hand-carried will be considered as having met the application deadline if it is received in the specific BPD office designated below by 5 p.m. EST on January 24, 2002. In each case, it is advisable to obtain documentation from the carrier showing the date and time the application was placed in transit or hand-delivered, as the case may be. A single, clear date and time stamp will help in determining whether the delivery of an application has met the deadline requirements set forth above. Applications sent by facsimile will not be accepted; applications sent electronically or by e-mail will be accepted only as set forth below.

*Demonstration Project: Electronic Submission of Applications:* For purposes of this NOFA only, applicants are invited to participate in a pilot demonstration project to test the efficiency and efficacy of the Fund's new electronic application form. For this demonstration project, a limited number of applicants will be asked to complete and submit both a paper and an electronic application, in the formats prescribed by the Fund. If your organization is interested in learning more about this demonstration project, please (i) visit *www.treas.gov/cdfi* for more information and (ii) email the Fund at *cdfihelp@cdfi.treas.gov* (with the subject line: ''electronic application'') within 30 days of this NOFA to submit your organization's name (and point of contact) as a prospective demonstration project participant, whereupon the Fund will contact you to inform you whether your organization has been selected to participate in the demonstration project. Participation in the demonstration project is in no way indicative of the likelihood of an applicant's success in being selected for an award under this NOFA. The Fund will accept electronic submission of applications only as described in this Section.

**ADDRESSES:** Applications shall be sent to: CDFI Fund Awards Manager, Bureau of Public Debt—Franchising, 200 Third Street, Room 211, Parkersburg, WV 26101. Applications will not be accepted at the Fund's offices.

**FOR FURTHER INFORMATION CONTACT:** If you have any questions about the programmatic requirements for this program, contact the Fund's NACTA Component Program Manager. If you wish to request an application package or if you have questions regarding application procedures, contact the Fund's Awards Manager. The NACTA Component Program Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov* by telephone at (202) 622–8662, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's web site at *www.treas.gov/cdfi.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Credit and investment capital are essential ingredients for developing affordable housing, starting or expanding businesses, meeting unmet market needs, and stimulating economic growth. Access to financial services is critical to help bring more Americans into the economic mainstream. The CDFI Program funds and supports financial institutions around the country that are specifically dedicated to financing and supporting community development activities. This strategy builds strong institutions that make loans and investments and provide services to markets (including economically distressed investment areas and disadvantaged targeted populations) whose needs for loans, investments, and financial services have not been met by traditional financial institutions.

Pursuant to the Act, the Fund has completed the research for the Native American Lending Study (''the Study''), which identifies significant barriers to lending and investment in Native American and Alaska Native communities and strategies for overcoming those barriers. One of the barriers identified by the Study is the small number of CDFIs and other financial institutions in Native American and Alaska Native communities. Since CDFIs are an important tool for developing self-sustaining economies in many underserved communities, the Fund, through the NACTA Component, seeks to assist Native American and Alaska Native communities to create and develop a network of CDFIs that will promote economic development in such communities.

This NOFA covers the Fiscal Year 2002 round of the NACTA Component of the CDFI Program and invites eligible entities to submit applications for TA for the purpose of promoting economic development activities in Native American and Alaska Native communities.

Under this NOFA, the Fund anticipates making a TA award of up to $100,000 to any one applicant. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of this amount if the Fund deems it appropriate.

Previous awardees under the CDFI Program are eligible to apply under this NOFA, but such applicants must be aware that success in a previous round should not be considered indicative of success under this NOFA. In addition, organizations will not be penalized for having received awards in previous funding rounds, except to the extent that: (i) The Fund is generally prohibited from obligating more than $5 million in assistance, in the aggregate, to any one organization and its Subsidiaries and Affiliates during a three-year period (further guidance on the calculation of the $5 million cap is available on the Fund's website at *http://www.treas.gov/cdfi)*; or (ii) an applicant that is a previous Fund awardee under any other Fund program or component of the CDFI Program has failed to meet

its reporting requirements, performance goals, financial soundness covenants (if applicable) and/or other requirements contained in the previously executed assistance or award agreement(s). Moreover, the Fund may, in its sole discretion, withhold or suspend making disbursements to an applicant, selected to receive an award under this NOFA, that either is a previous Fund awardee or whose Affiliate(s) is a previous Fund awardee under any other Fund program or component of the CDFI Program, if the applicant or its Affiliate(s) has failed to comply with any term, agreement, covenant or condition contained in or referenced in any previous Fund assistance or award agreement. The Fund will generally commence or resume making disbursements to such applicant upon the applicant's or its Affiliate's subsequent compliance.

## II. Eligibility

At the time an entity submits its application under this NOFA, the entity must be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. There are three categories of eligible applicants under this NOFA. Eligible entities include:

(i) *Category 1:* CDFIs That Primarily Serve Native American or Alaska Native Populations: Fund-certified CDFIs or other entities that propose to become Fund-certified CDFIs (i.e., qualified community development lenders, for purposes of this NOFA) by January 24, 2004, that primarily serve Native American or Alaska Native communities;

(ii) *Category 2:* Tribes, Tribal Entities, Or Non-Profit Organizations That Primarily Serve Native American or Alaska Native Populations: Generally, applicants in Category 2 are accountable to a specific Tribe or group of Tribes, Alaska Native Village or group of Villages, or Native American or Alaska Native population that resides in a specific geographic region such as a city, county, state, or states, such as: (a) Tribes, Tribal entities, Alaska Native Villages (also known as Village Governments), Village Corporations, Regional Corporations, Non-Profit Regional Corporations/Associations, or Inter-Tribal or Inter-Village organizations; or (b) non-profit community organizations engaged in related activities, including but not limited to: community development corporations (CDCs), training and educational organizations, Tribally-Controlled Community Colleges, Chambers of Commerce, or Urban Indian Centers that have a mission and practice of serving primarily a Native American or Alaska Native community (applicants in this category must establish entities that will become Fund-certified CDFIs by January 24, 2005); or

(iii) *Category 3:* TA Providers or Other Suitable Providers: (a) TA Providers, including firms that provide training or TA in community development finance or that specialize in economic development in Native American or Alaska Native communities, or (b) other suitable providers, as defined by the Fund, that include, but are not limited to: CDCs, certified CDFIs, organizations with experience and expertise in banking and lending in Native American or Alaska Native communities (applicants in this category must establish entities that will become Fund-certified CDFIs by January 24, 2005). Applicants applying under Category 3 must have a NACTA Eligible Partner. Generally, entities that are not accountable to a specific Tribe or group of Tribes, Alaska Native Village or group of Villages, or Native American or Alaska Native population that resides in a specific geographic region such as a city, county, state, or states, even though they may be owned or managed by an individual or group of individuals who are of Native American or Alaska Native ancestry, will be considered to be a Category 3 applicant. For example, a consulting firm owned by and serving Native Americans, or a Non-Native CDFI, will be considered a Category 3 applicant and will need a NACTA Eligible Partner. The Fund, in its sole discretion, reserves the right to waive this requirement.

For the purposes of this NOFA, to be certified as a CDFI by the Fund, an applicant, individually and collectively with its affiliates, must have a primary mission of promoting community development. In addition, the applicant must: be an insured depository institution, a depository institution holding company or an insured credit union; or if not a regulated financial institution, provide loans or equity investments as its predominant business activity; serve an eligible Target Market, which may consist of an Investment Area(s) or a targeted population; provide development services; maintain community accountability; and not be controlled by an instrumentality or division of the United States Government. If an applicant is a depository institution holding company or an affiliate of a depository institution holding company, the applicant individually and collectively with its affiliates, must meet all of the aforementioned requirements.

NACTA Component applicants, including CDFIs, that do not serve primarily a Native American or Alaska Native population must identify a NACTA Eligible Partner(s) that serves primarily a Native American or Alaska Native population and that the applicant will work with to establish a CDFI in the NACTA Eligible Partner's community or service area that will serve primarily a Native American or Alaska Native population.

For purposes of this NOFA, the Fund will use the following definition, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997): American Indian, Native American or Alaska Native means a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Further details regarding eligibility and other program requirements are found in the application packet related to this NOFA.

For purposes of determining whether or not the applicant is serving an eligible Investment Area, the Fund will continue to use 1990 Census data, as 2000 Census data will not be available in sufficient detail for use under this NOFA.

## III. Types of Assistance

An applicant under this NOFA may submit an application for a TA grant. Applicants for TA under this NOFA shall describe the type(s) of TA requested, when the TA will be acquired, the provider(s) of the TA, the cost of the TA, and a narrative explanation of how the TA will enhance their community development impact. The role of NACTA Eligible Partner, if applicable, must also be described.

## IV. Application Packet

An applicant under this NOFA must submit the materials described in the application form.

## V. Evaluation

Applications received will be reviewed for eligibility and completeness. If determined to be eligible and complete, applications will be evaluated by the Fund on a competitive basis in accordance with the criteria described in this NOFA. In conducting its substantive review, the Fund will evaluate applications according to the criteria, and use the procedure described, in this NOFA. In conducting its substantive review, the Fund will evaluate each application and

assign numeric scores related to the applicant's Comprehensive CDFI Development Plan.

*Phase One*

In Phase One of the substantive review, each Fund reader will evaluate applications on a 100-point scale, using the following criteria and allocation of points:

(1) *Comprehensive CDFI Development Plan:* 60 points maximum; with a minimum score of 30 points required to advance to Phase Two review. The score for the CDFI Development Plan is based on a composite assessment of an applicant's strength and weaknesses under several sub-criteria. The number and scoring of the sub-criteria will be different for each of the applicant categories described under Eligibility (above), as follows:

(i) *Category 1:* CDFIs that Primarily Serve Native American or Alaska Native Populations: Scoring of the sub-criteria is weighted to reflect whether the applicant is a start-up organization or an established organization. The Fund defines a start-up organization as an entity that has been in operation three years or less, as of the date of this NOFA (meaning, for purposes of this NOFA, having incurred initial operating expenses on or after September 24, 1998). The sub-criteria are:

(a) Community development track record (established organizations only): 10 point maximum;

(b) Financial track record or condition (established organizations only); 10 point maximum;

(c) Capacity, skills and experience of the management team: 10-point maximum (established organizations); and 30 point maximum (start-ups);

(d) Market analysis, program implementation, and impact: Projected activities and community development impact (the plan to establish or strengthen a CDFI and how that entity will have a positive impact in the community that it [will] serves): 30 point maximum.

(ii) *Category 2:* Tribes, Tribal Entities, or Non-Profit Organizations that Primarily Serve Native American or Alaska Native Populations:

(a) Community development track record—economic development, community development, and training (such as financial literacy, small business finance, homebuyer education): 10 point maximum for Tribal and Village Governments; 5 point maximum for all other applicants in this category;

(b) Financial track record—of lending operations, if applicable, and financial condition of the applicant: 5 point maximum (although Tribal and Village Governments will not be scored under this sub-criteria, if they have a housing or business lending operation, they must submit the information requested for that operation only, which will be considered during Phase Two of the Fund's review process);

(c) Capacity, skills and experience of the management team (i.e., the individuals that will be developing the CDFI being established relevant to this application): 20 point maximum;

(d) Market analysis, program implementation, and impact: Projected activities and community development impact (the plan to establish or strengthen a CDFI and how that entity will have a positive impact in the community that it [will] serves): 30 point maximum.

(iii) *Category 3:* TA Providers or Other Suitable Providers:

(a) Community development track record '' experience and track record of financing activities, building capacity of a CDFI or other community development organization, or training and technical assistance activities, including program design, program evaluation, and staff or institutional skill-building in general and in Native American and Alaska Native communities; 10 point maximum total (5 points for general track record; 5 points for track record in Native American or Alaska Native communities);

(b) Financial condition of applicant; 5 point maximum;

(c) Capacity, skills and experience of the management team (i.e., consulting team and the NACTA Eligible Partner): 15 point maximum;

(d) Market analysis, program implementation and impact: Projected activities and community development impact (the plan to establish or strengthen a CDFI and how that entity will have a positive impact in the community that it [will] serves): 30 point maximum.

In the case of an applicant that has previously received an award from the Fund, the Fund will consider the applicant's level of success in meeting its performance goals, financial soundness covenants (if applicable), and other requirements contained in its existing assistance or award agreement(s) with the Fund, and the benefits that will be created with new Fund assistance over and above benefits created by previous Fund assistance.

(2) *Technical Assistance Proposal (TAP):* 40 point maximum; with a minimum score of 20 points required to advance to Phase Two review. The TAP provides the applicant with an opportunity to address the organizational improvements needed to strengthen or establish a CDFI that will serve a Native American or Alaska Native population as defined in the plan above. Such assessment is accompanied by an itemized budget with written justification for each item. In the TAP, the applicant should describe: (i) the entity that will be the beneficiary of the TA requested (the applicant, the partner, or the entity to be formed) and (ii) how this assistance will translate to community development impact, particularly within the Target Market; and (iii) why NACTA resources are needed to carry out this plan. The budget, budget justification and accompanying narrative will be evaluated for the eligibility of proposed uses of the TA funds. Eligible types of TA award uses will be different for each of the groups of eligible applicants as follows:

(i) *Category 1:* CDFIs that Primarily Serve Native American or Alaska Native Populations:

(a) Acquiring consulting services;

(b) Paying staff salary connected with the limited purposes of completing tasks and/or fulfilling functions that are otherwise eligible TA award uses under this NOFA;

(c) Acquiring training for staff, management, or board members; and

(d) Acquiring/enhancing technology items, for the purposes of building internal capacity to increase community development impact.

(ii) Category 2: Tribes, Tribal Entities, or Non-Profit Organizations that Primarily Serve Native American or Alaska Native Populations:

(a) Acquiring consulting services and

(b) Acquiring training for staff, management, or board members.

(iii) *TA Providers or Other Suitable Providers:*

(a) Acquiring consulting services, and

(b) Paying staff salary connected with the limited purposes of completing tasks and/or fulfilling functions that are otherwise eligible TA award uses under this NOFA (i.e., to provide consulting services to establish a CDFI that will serve a Native American or Alaska Native population).

The Fund will not consider requests under this NOFA for expenses that, in the determination of the Fund, are deemed to be ongoing operating expenses rather than non-recurring expenses (for example, the cost of designing a marketing plan for a loan product through a consulting contract is a non-recurring expense, but the cost of producing or distributing printed marketing materials is an ongoing expense; generally, except as described

below, salary expenses for staff are ongoing, but the cost of a consulting contract for a discrete scope of services is a non-recurring expense).

TA funds may be used to engage consultants to perform tasks related to implementing the proposed Comprehensive CDFI Development Plan or TAP, such as: development of plans and strategies (for example: market analysis; financial product development plan; financial product marketing plan; or capitalization strategy identifying financial objectives); development of lending policies and procedures; and other tasks related to the development or strengthening of a CDFI.

The Fund will consider requests for use of TA to cover staff salary only when the applicant demonstrates and represents that: the proposed staff time to be covered by the TA will be used for, generally speaking, a non-recurring activity that will build the capacity of the applicant (for Category 1 applicants) or the proposed entity (for Category 2 applicants) to achieve its objectives of the CDFI Development Plan and Technical Assistance Proposal; and the staff person assigned to the proposed task has the competence to successfully complete the activity.

Applicants in eligibility Category 1 (meaning, current or start-up CDFIs that propose to build their own capacity) must show that the proposed capacity building activity would otherwise be contracted to a consultant or not be undertaken and the staff time devoted to this capacity-building activity would not otherwise harm other operations. Additionally, TA may only be used to cover that portion of a staff person(s) salary that represents the time that staff person(s) spends on the identified capacity-building activities, but not to exceed the equivalent of 50 percent of said employee's annual salary within one year; staff salary use of TA may be spread over a period of up to 24 months. For example, it may be an eligible use of a TA grant to pay the salary of staff assigned the task of creating or updating a market analysis or designing underwriting criteria for a new loan or investment product when that market analysis or loan product is critical to achieving the objectives of the Comprehensive CDFI Development Plan and Technical Assistance Proposal. NACTA award funds may not be used to cover employee fringe benefits, space allocation, or administrative overhead.

Applicants in eligibility Category 3 (meaning, TA providers and other suitable providers that propose to start a CDFI) may request TA for staff salary to implement a reasonable scope of work at rates that are consistent with the provider's previous market experience or rates of pay.

NACTA Component funds may not be used to assist an awardee to prepare an application for funding to the Fund or any other source.

*Phase Two*

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for funding based on the recommendations and scores (standardized if deemed appropriate) received during Phase one review and the amount of funds available. Applicants that advance to Phase Two may receive a site visit and/or telephone interview(s) conducted by a Fund reviewer for the purpose of obtaining clarifying or confirming information. At this point in the process, applicants may be required to submit additional clarifying information about their application in order to assist the Fund with its final evaluation. After conducting such site visit and/or telephone interview(s), Fund reviewers will evaluate applications based on all the elements outlined in the application, and prepare recommendation memoranda containing the type, uses and amount of assistance, if any, that should be provided to each applicant.

The Fund reserves the right, in its sole discretion, to use a review panel comprised of Fund staff to consider each Fund reviewer's recommendation memorandum and make a final recommendation to the Fund's selecting official. The Fund's selecting official will consider the panel's recommendation, if applicable, and the reviewer's recommendation memorandum in order to make the final funding decision. In making the funding decision, the Fund's selecting official also may consider the institutional diversity and geographic diversity of applicants (e.g., selecting a CDFI from a state in which the Fund has not previously made an award over a CDFI in a state in which the Fund has already made several awards).

The Fund's selecting official will make a final funding determination based on the applicant's file, including, without limitation, recommendations of the Phase One and Phase Two reviewers recommendations and the panel's recommendations, if applicable, the amount of funds available, and, for prior awardees, the status of its compliance and award disbursements to date. In the case of regulated CDFIs, the selecting official will also take into consideration the views of the appropriate Federal banking agencies. In the case of recommendations for TA awards over $100,000, the Fund will seek to ensure that there is a likelihood of significant community development impact resulting from such awards. The Fund's selecting official reserves the right to reject any application in the case of a pervious Fund awardee that has failed to comply with the terms and conditions of its previous assistance or award agreement(s).

The Fund reserves the right to change these evaluation procedures if the Fund deems it appropriate.

**VI. Information Sessions**

In connection with the Fiscal Year 2002 funding rounds of its programs, the Fund will conduct In-Person Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core, Intermediary, SECA and NACTA Components of the CDFI Program, and the BEA Program. Registration is required, as the In-Person Information Sessions will be held in secured federal facilities. The Fund anticipates conducting up to 17 In-Person Information Sessions, through October 31, 2001, in the following cities: Anchorage, AK; Boston, MA; Chicago, IL; Dallas, TX; Denver, CO; Honolulu, HI; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Philadelphia, PA; Seattle, WA; and Washington, DC.

In addition to the In-Person Information Sessions listed above, the Fund will broadcast a Televideo Information Session, using interactive video-teleconferencing technology, on November 8, 2001 (tentative date), 1:00 p.m. to 4:00 p.m. EST. Registration is required, as the Televideo Information Session will be held in secured federal facilities. The Televideo Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY: Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson, MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little

Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

For further information on the Fund's Information Sessions, dates and locations, or to register online for an Information Session, please visit the Fund's website at *www.treas.gov/cdfi.* If you do not have Internet access, you may register by calling the Fund at (202) 622–8662.

Catalog of Federal Domestic Assistance: 21.021.

**Authority:** 12 U.S.C. 1834a, 4703, 4703 note, 4713; P.L. 106–377; 12 CFR part 1806.

**Tony Brown,**

*Director, Community Development Financial Institutions Fund.*

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## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

### Notice of Funds Availability (NOFA) Inviting Applications for the Bank Enterprise Award Program

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Notice of funds availability (NOFA) inviting applications for the FY 2002 funding round of the Bank Enterprise Award Program.

**SUMMARY:** The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) authorizes the Community Development Financial Institutions Fund (hereafter referred to as ''the Fund'') to provide incentives, through the Bank Enterprise Award (''BEA'') Program, to Insured Depository Institutions for the purposes of promoting investments in or other support to Community Development Financial Institutions (''CDFIs'') and facilitating increased lending and provision of financial and other services in economically distressed communities. Insured depository institutions and CDFIs are defined terms in 12 CFR part 1805 and part 1806, the regulations that govern the CDFI Program (the ''CDFI Program Regulations'') and the BEA Program (the ''BEA Program Regulations''), respectively.

This NOFA is issued in connection with the Fiscal Year 2002 funding round of the BEA Program. Subject to funding availability, the Fund expects that it may award approximately $16.5 million in appropriated funds under this BEA Program NOFA. The Fund reserves the right to award in excess of $16.5 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. Under this NOFA, the Fund anticipates a maximum award amount of $2.0 million per applicant. The Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA and the right to award amounts in excess of the anticipated maximum award amount, if the Fund deems it appropriate.

Published elsewhere in this issue of the **Federal Register** are (i) The Fund's NOFA for the combined Core and Intermediary Components of the CDFI Program, through which CDFIs may apply directly to the Fund for financial assistance and/or technical assistance awards, (ii) the Fund's NOFA for the Small and Emerging CDFI Assistance (''SECA'') Component of the CDFI Program, through which CDFIs may apply directly to the Fund for technical assistance awards and Small and Emerging CDFIs, as defined therein, may apply directly to the Fund for financial assistance and technical assistance awards, and (iii) the Fund's NOFA for the Native American CDFI Technical Assistance (''NACTA'') Component of the CDFI Program, through which organizations that serve or wish to serve Native American communities through the provision of loans, investments and financial services, may apply directly to the Fund for TA awards. In addition, the Fund expects to issue, at a later date, a Notice of Allocation Availability (''NOAA'') for the New Markets Tax Credit (''NMTC'') Program, inviting applications from eligible entities for allocations of tax credits. As set forth in the Fund's Guidance, published in the **Federal Register** on May 1, 2001 at 66 FR 21846, the NMTC Program will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities.

**DATES:** The BEA Program has a two-part application. For the FY 2002 funding round, Part One (the ''Initial Application'') may be submitted at any time, commencing September 24, 2001. The deadline for the Initial Application is 5:00 p.m. EST on November 13, 2001. Initial Applications received in the specific Bureau of the Public Debt—Franchise Services (BPD) office designated below after that date and time will be rejected and returned to the sender, except as follows. An Initial Application mailed via United States Postal Service will be considered as having met the deadline if it is clearly postmarked on or before midnight November 12, 2001. An Initial Application sent by overnight/express delivery will be considered as having met the deadline if it is placed in transit with an overnight/express delivery service by no later than November 12, 2001. An Initial Application that is hand-carried will be considered as having met the deadline if it is received in the specific BPD office designated below by 5:00 pm EST on November 13, 2001.

The deadline for Part Two of the Application (the ''Final Report'') is 5:00 p.m. EST on August 1, 2002. Final Reports received in the specific BPD office designated below after that date and time will be rejected and returned to the sender, except as follows. A Final Report mailed via United States Postal Service will be considered as having met the deadline if it is clearly postmarked on or before midnight July 31, 2002. A Final Report sent by overnight/express delivery will be considered as having met the deadline if it is placed in transit with an overnight/express delivery service by no later than July 31, 2002. A Final Report that is hand-carried will be considered as having met the deadline if it is received in the specific BPD office designated below by 5:00 pm EST on August 1, 2002.

In each case, it is advisable to obtain documentation from the carrier showing the date and time the Initial Application or the Final Report was placed in transit or hand-delivered, as the case may be. A single, clear date and time stamp will help in determining whether the delivery of an Initial Application or a Final Report has met the applicable deadline requirements set forth above.

Initial Applications or Final Reports sent by facsimile will not be accepted. Final Reports (but not Initial Applications) may be submitted

electronically through the Fund's website at *www.treas.gov/cdfi.*

Any entity seeking certification as a CDFI (as described in 12 CFR 1805.200) for the purpose of the BEA Program (either as an Applicant or a CDFI Partner) is strongly encouraged to submit the Application Form for Certification (the contents of which are described in 12 CFR 1805.201(b)(1) through (7)), by Tuesday, November 20, 2001. If an entity fails to submit such application by this deadline, the Fund may not have sufficient time to timely complete a certification review for the purpose of the current funding round of the BEA Program. With respect to all requests for certification, the Fund reserves the right to request clarifying or technical information after reviewing materials submitted as described in 12 CFR 1805.201(b)(1) through (7). If the entity seeking certification does not respond to such requests in a timely manner, the Fund may not have sufficient time to complete a certification review for the purposes of the current funding round of the BEA Program.

**ADDRESSES:** Both the Initial Application and the Final Report shall be sent to: CDFI Fund Awards Manager, Bureau of Public Debt—Franchising, 200 Third Street, Room 211, Parkersburg, WV 26101. Initial Applications and Final Reports will not be accepted in the Fund's offices.

**FOR FURTHER INFORMATION CONTACT:** If you have any questions about the programmatic requirements of the BEA Program, contact the BEA Program Manager. Should you wish to request an application package or have questions regarding application procedures, contact the Awards Manager. The BEA Program Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov,* by telephone at (202) 622–8662, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's web site at *http://www.treas.gov/cdfi.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

As part of a national strategy to facilitate revitalization and increase the availability of credit, investment capital and financial services in distressed communities, the Community Development Banking and Financial Institutions Act of 1994 (''Act'') authorizes a portion of funds appropriated to the Fund to be made available for distribution through the BEA Program. The BEA Program is largely based on the Bank Enterprise Act of 1991, although Congress significantly amended the program to facilitate greater coordination with other activities of the Fund. The BEA Program and the CDFI Program are complementary initiatives that support a wide range of community development activities and facilitate partnerships between traditional lenders and CDFIs. This NOFA invites applications from Insured Depository Institutions for the purpose of promoting community development activities and revitalization.

## II. Eligibility

The Act specifies that eligible Applicants for the BEA Program must be Insured Depository Institutions, as defined in 12 U.S.C. 1813(c)(2). An Applicant must be FDIC-insured by the deadline for submission of the Initial Application (i.e., November 13, 2001) to be eligible for consideration for a BEA Program award under this NOFA.

## III. Designation of Distressed Community

In accordance with 12 CFR 1806.200(d), in the case of Applicants carrying out Qualified Activities requiring the designation of a Distressed Community (as said terms are defined in 12 CFR 1806.103(r)), the Fund will provide Applicants with data and other information to help identify areas that are eligible to be designated as Distressed Communities. Specifically, the Fund will provide such information through the CDFI Fund Help Desk website (the ''Help Desk''). The Help Desk is found at *www.treas.gov/cdfi.* The Fund requires all Applicants to use the Help Desk to produce the Distressed Community worksheets and corresponding maps. The Help Desk provides step-by-step instructions on how to designate a Distressed Community and allows an Applicant to create and print instantly a Distressed Community designation worksheet(s) and corresponding map(s). For purposes of determining whether an Applicant is serving an eligible Distressed Community, the Fund will continue to use 1990 Census data, as 2000 Census data will not be available in sufficient detail for use under this NOFA.

## IV. Designation Factors

The BEA Program Regulations describe the Fund's processes for rating and selecting Applicants to receive assistance and for determining award amounts. Award amounts will be calculated by the Fund based on increases in Qualified Activities that occur during a 6-month Assessment Period in excess of activities that occurred during a 6-month Baseline Period. In general, award amount for Applicants making Equity Investments in CDFIs will be equal to 15 percent of the increase in such activities. An Applicant may choose to accept less than the maximum amount of 15 percent (but no less that 12 percent) in order to increase the ranking of its Application within the Equity Investment category. Award amounts for CDFI Applicants carrying out CDFI Support Activities will be equal to 33 percent of the increase in such activities. Award amounts for non-CDFI Applicants for carrying out CDFI Support Activities will be equal to 11 percent of the increase in such activities.

For Applicants pursuing Development and Service Activities, a multiple step procedure is outlined in the BEA Program Regulations that will be used to calculate the estimated award amounts. In general, if an Applicant is a CDFI, such estimated award amount will be equal to 15 percent of the total score calculated in the multiple step procedure. If an Applicant is not a CDFI, such estimated award amount will be equal to 5 percent of the total score calculated in the multiple step procedure.

If the amount of funds available during a funding round is insufficient for all estimated award amounts, awardees will be selected based on the process described at 12 CFR 1806.204. This process gives priority to Applicants in the following order: (1) Equity Investments in CDFIs serving Distressed Communities; (2) Equity Investments in CDFIs not serving Distressed Communities; (3) CDFI Support Activities; and (4) Development and Service Activities (as defined in 12 CFR 1806.103). Beginning with this NOFA, in addition to ranking Applicants within the Development and Service Activity category by the ratio of the total score to the asset size of the Applicant, the Fund will give Applicants that are certified CDFIs first priority within the Development and Service Activity category.

The Fund, in its sole discretion: (1) May adjust the estimated award amount that an Applicant may receive; (2) may establish a maximum amount that may be awarded to an Applicant; and (3) reserves the right to limit the amount of

an award to any Applicant if the Fund deems it appropriate.

**V. Baseline Period and Assessment Period Dates**

As part of its Initial Application, an Applicant shall report the Qualified Activities that it actually carried out during the 6-month Baseline Period beginning January 1, 2001 and ending June 30, 2001. An Applicant shall also project the Qualified Activities that it expects to carry out during the 6-month Assessment Period beginning January 1, 2002 and ending June 30, 2002. Applicants participating in the BEA Program must submit to the Fund a Final Report (Part II of the Application) of Qualified Activities actually carried out during the Assessment Period. The Fund will evaluate the performance of Applicants in carrying out projected activities to determine actual award amounts. The Fund may request clarifying or technical information after receiving an Applicant's Final Report.

**VI. Compliance With Other CDFI Fund Awards**

In the event that an FY 2002 BEA Program Awardee or its subsidiary or affiliate is not in compliance with the terms and conditions of any other award under any component of the CDFI Program, the Fund may, in its sole discretion, withhold disbursement (either initial or subsequent) on the FY 2002 BEA Program award. Moreover, noncompliance with any other award shall be considered an event of default under the FY 2002 BEA Program award. This policy will take effect with regard to compliance issues arising in calendar year 2002.

**VII. Certification Status**

For purposes of determining BEA Program awards, the BEA Program Regulations define a CDFI as '' an entity whose certification under § 1805.201 of this chapter is in effect as of the end of the applicable Assessment Period * * *'' 12 CFR 1806.103(m). Accordingly, in order for a BEA Program Applicant to receive credit for CDFI Related Activities, the CDFI partner(s) that receives financial or technical assistance must be certified as a CDFI by the Fund as of the end of the Assessment Period for the particular BEA Program funding round. Moreover, the CDFI partner's certification must not have lapsed (i.e., expired without the prior submission to the Fund of a recertification Application). If a BEA Program Applicant provides assistance to an organization that is not certified as a CDFI as of the end of the Assessment Period, then the transaction shall not be considered assistance to a CDFI and shall not be a Qualified Activity. Such activity would not be eligible to count toward a BEA Program award.

If the BEA Program Applicant is considering providing assistance to an organization that the Fund has not yet certified, the activity will qualify—provided the organization is certified by the Fund by the end of the Assessment Period. However, Applicants should be advised that the Fund cannot guarantee certification before the end of the Assessment Period of those organizations that have submitted certification Applications after the Initial Application Due date (November 13, 2001 for the FY 2002 funding round).

If the CDFI partner submits its recertification Application by no later than the certification expiration date evidencing that it can be recertified, then the Fund will deem the CDFI's certification to be continued on an interim basis until the Fund makes its final determination. In the interim, any assistance by a BEA Program Applicant to a CDFI that submitted a recertification Application by its expiration date would be considered a CDFI Qualified Activity (provided the activity meets all other applicable requirements).

If an Applicant is itself seeking certification as a CDFI, then it must be certified as a CDFI by the Fund as of the end of the Assessment Period for the particular BEA Program funding round in order to be eligible for the higher award percentage and ranking priority afforded CDFIs. If an Applicant is not certified as a CDFI by the end of the applicable Assessment Period, then it shall not be treated as a CDFI for purposes of determining award amounts. In addition, if the Applicant's certification is due to expire on or before the end of the Assessment Period (June 30, 2002 for the FY 2002 fund round of the BEA Program Round)—and allows its certification to lapse—the Applicant will not be treated as a CDFI for purposes of determining award amounts and ranking. If the CDFI Applicant submits a recertification Application evidencing that it can be recertified—by no later than the certification expiration date—then the Fund will deem the CDFI Applicant's certification to be continued on an interim basis until the Fund makes its final determination. A CDFI that submitted a recertification Application by its expiration date would be treated as a CDFI for purposes of calculating an award amounts and ranking.

Information on the certification status and certification expiration date of each CDFI can be found on the Fund's list of certified CDFIs, which may be obtained on the Fund's website: *www.treas.gov/cdfi.*

**VIII. Loan Participations**

On January 31, 2001, the Fund issued policy guidance clarifying the types of transactions it will consider to be eligible Participation Loans for the purpose of calculating BEA Program awards. Specifically, the guidance stated that a Participation Loan may qualify as either a CDFI Support Activity or a Development Activity like any other loan under the BEA Program. In order for a participation loan to be considered a CDFI Support Activity, the borrower must be a CDFI, and the monies drawn must be used to support the CDFI's activities. In order for a participation loan to be considered a Development Activity, the borrower or activity financed must be located within or integrally involved in a designated Distressed Community.

The January 31, 2001 guidance further clarified that, as with other loans, for a participation loan to be considered a Qualified Activity under the BEA Program, the loan must be closed and an initial disbursement made during the applicable Assessment Period. While a participation agreement among lenders may be executed prior to an applicable Assessment Period, a BEA Program Applicant shall receive an award only for a loan funding a particular Qualified Activity that is closed during the Assessment Period. In the case of a participation loan that involves one of the lenders serving as a ''lead lender'' or ''agent'' for this group, the disbursement of funds to the ''lead lender'' or ''agent'' to fund loans to third parties does not necessarily constitute a loan by one or more participating lenders to the lead lender or agent. In particular, if such lead lender or agent is a CDFI, the above-described disbursement may not constitute a loan to a CDFI for purposes of calculating a BEA Program Award.

**IX. Lines of Credit**

Given current demand for the BEA Program's resources, concerns have been raised about the current method of calculating BEA Program awards applicable to lines of credit (i.e., based upon the maximum amount of the line). Specifically, with large lines of credit (e.g., $10 million and above), the borrower often does not fully draw down the entire line of credit within the three-year period. A BEA Program award based on the full amount of the line may require the Fund to obligate more funds than the Awardee will disburse.

As provided in the BEA Program Regulations at 12 CFR 1806.205(d), the Fund has the discretion to limit the amount of an award for any reason. Given the strong demand for BEA Program resources, beginning with the FY 2002 round of the BEA Program, the Fund will limit the amount of resources it will obligate toward Lines of Credit. In the case of lines of credit for commercial real estate loans that are secured by real estate and which have a permanent take out source, Applicants may count the full amount of the line (consistent with current practices). For all other lines of credit, Applicant may only count the amount of monies expected to be disbursed on the line within 12 months of closing, but in no event shall the amount obligated exceed the greater of: (a) The face amount of the line, or (b) $2 million in the case of CDFI Support Activities and $1 million in the case of Development and Service Activities.

**X. Equity Like Loans**

For purposes of calculating BEA Program awards, the Fund will treat certain loans, ''made on such terms that they have characteristics of equity,'' to be Equity Investments. The Fund refers to such loans as Equity-Like Loans. Prior to the FY 2001 funding round of the BEA Program, the Fund stated (in general guidance) that an Equity-Like Loan must meet all three of the following criteria to be considered a Qualified Activity: (1) The loan must have a ''soft,'' flexible maturity (i.e., a rolling maturity such as when the maturity date is extended annually by one year, or a maturity in which repayment is required only when the CDFI borrower has resources available to make the payment); (2) payment of interest and/or principal may only be made out of the CDFI borrower's available cash flow and non-payment of principal or interest will not automatically trigger a default; and (3) the loan must be subordinate to all other debt of the CDFI borrower.

In recent years, BEA Program Applicants have developed new loan and investment instruments and the use of Equity-Like Loans has become more common in the financial services industry. In response to these trends, the Fund issued guidance updating and clarifying its policy on the types of instruments it will consider to be Equity-Like Loans for the purpose of calculating BEA Program awards.

Specifically, the January 2001 guidance states that, beginning with the FY 2001 funding round of the BEA Program, the Fund will require an instrument to have each of the following characteristics in order to be considered an Equity-Like Loan:

(1) The initial term of the loan at the time of origination must be a minimum of ten years.

(2) The maturity date at the end of the initial ten year term must be a ''soft'' or indefinite, rolling maturity that is extended, subject to the following sentence, in annual increments after the initial maturity date so long as the CDFI borrower continues to be financially sound and carry out a community development mission. The period of the extended rolling maturity must be a minimum of five years after the initial ten-year term. In other words, as long as the CDFI borrower remains fiscally sound and pursues a community development mission, the effective term of the loan must be at least 15 years.

(3) There shall be no periodic payments of principal during the initial term of the loan. The CDFI borrower may pay principal, in whole or in part, during the extended term of the loan or at maturity. Any such payment shall be made in accordance with the provisions of this policy.

(4) Any payment of principal and/or interest on the loan (except at maturity) shall be required to be made only out of the CDFI borrower's available cash flow after satisfying all other obligations, including all other non-subordinated and non-equity-like debt, and operating expenses. Furthermore, failure to make payment of principal and/or interest shall not automatically result in a default. However, nothing in the foregoing shall be construed as a requirement to forego any right to any payment of principal or interest.

(5) The loan must be subordinate to all other debt of the CDFI borrower except for other Equity-Like Loans.

Notwithstanding the foregoing, the Fund reserves the right to determine, on a case-by-case basis, if an instrument evidences an Equity-Like Loan.

As specified in the January 2001 guidance, the Fund requests that Applicants submit to the Fund for review, not later than 45 days prior to the end of the Assessment Period, all documents evidencing loans that they wish to be considered Equity-Like Loans. The purpose for this request is to enhance the Fund's ability to provide feedback to Applicants as to whether a transaction meets the Equity-Like Loan requirements prior to the end of the applicable Assessment Period. Such information will allow Applicants, if they so choose, to modify the instruments to conform to the requirements prior to the end of the Assessment Period. This process is intended to prevent circumstances in which an Applicant executes loan documents without review by the Fund only to learn after the close of the Assessment Period that the transaction is ineligible. The Fund cannot guarantee timely feedback to Applicants that submit the aforementioned documentation less than 45 days prior to the end of the applicable Assessment Period.

**XI. Deposits in CDFIs**

As provided in the BEA Program Regulations at 12 CFR 1806.205(d), the Fund has the discretion to limit the amount of an award for any reason. Given the strong demand for BEA Program resources and concerns about over-subscription, the Fund has decided to cap the maximum applicable award for deposits in certified CDFIs. Specifically, effective with the FY 2002 funding round of the BEA Program, for the purposes of determining the award amount attributed to deposits in CDFIs, the Fund will count only the first $1,000,000 deposited in certified CDFIs. Furthermore, the Fund will only count a deposit in a CDFI if the CDFI receiving the deposit has not made a corresponding deposit in the Applicant making the deposit.

The Fund also wishes to clarify how Applicants should calculate a ''Materially Below Market'' interest rate on a Certificate of Deposit. The BEA Program Regulations state that any Certificate of Deposit placed by an Applicant in a CDFI that is bank, thrift, or credit union must be: (1) Uninsured; or (2) insured if it earns a rate of interest that is determined by the Fund to be Materially Below Market. The Fund has interpreted a ''Materially Below Market'' interest rate to be an Annual Percentage Rate that does not exceed 80 percent of the rate on a U.S. Treasury bill of comparable maturity as of the date the deposit is placed. For a three-year deposit, use the three-year rate posted for U.S. Government securities, Treasury Constant Maturity on the Federal Reserve website at *www.federalreserve.gov/releases/H15/update.* The rate on the website is updated daily at approximately 4:00 p.m. Eastern Time. Certificates of Deposit closed prior to that time may use the rate posted for the previous day. The Fund also wishes to clarify that the Annual Percentage Rate on a Certificate of Deposit should be compounded quarterly, semi-annually, or annually. In addition, the Fund wishes to clarify that Applicants should determine whether a Certificate of Deposit is insured based on the total amount the Applicant has on deposit on the day the Certificate of Deposit is placed. For example, if an

Applicant purchased a $100,000 Certificate of Deposit from a CDFI in April, 2000 and purchases another $100,000 Certificate of Deposit from the same CDFI in May, 2002, then the second Certificate of Deposit should be treated as uninsured for purposes of calculating the Annual Percentage Rate. The Applicant must make note of this in its BEA Program Application.

**XII. Waivers**

First, for the purpose of streamlining the Application process and reducing burdens on Applicants, and pursuant to the BEA Program Regulations at 12 CFR 1806.104, the Fund hereby waives the regulatory requirement that Applicants submit the items described at 12 CFR 1806.206(b)(1), (4) and (7). Specifically, for the purpose of this NOFA, an Applicant is not required to submit: (1) Copies of its certificate of insurance issued by the Federal Deposit Insurance Corporation, articles of incorporation, Federal or state-issued bank or thrift charter, by-laws and other establishing documents for the purpose of establishing eligibility for an award; (2) a copy of its most recent Report of Condition or Thrift Financial Report; or (3) a copy of its most recent annual report. The Fund has waived the requirement that these items be submitted with the Application because the Federal Deposit Insurance Corporation will conduct a verification of eligibility for the Fund based on information it has collected from insured depository institutions. Further, each Applicant's total asset size will be obtained by the Fund through other publicly available data sources (specifically, the Fund will use data reported through the Federal Deposit Insurance Corporation's website).

Second, for the purpose of this NOFA and the NOFA published in the **Federal Register** on September 1, 1999 (64 FR 48062), the Fund is waiving two of the requirements set forth in 12 CFR 1806.103(m) of the BEA Program Regulations. Section 1806.103(m) provides that an Applicant may receive an award under the BEA Program for assistance provided to an uncertified CDFI that, at the time of the Qualified Activity, does not meet the CDFI eligibility requirements if: (1) The Applicant requires the uncertified CDFI to refrain from using the assistance provided until the entity is certified; (2) the uncertified CDFI is certified by the end of the applicable Assessment Period; and (3) the Applicant retains the option of recapturing said assistance in the event the uncertified CDFI is not certified by the end of the applicable Assessment Period.

The Fund believes that waiving the first requirement will further the purposes of the Act. Specifically, the Conference Report underlying the Act provides that Congress intended the BEA Program to affect immediately economically distressed communities through infusion of private dollars as loans, services, and technical assistance to, and equity investments in, CDFIs. The Fund believes the requirement that an uncertified CDFI refrain from using the assistance would defeat the purposes of the Act by delaying the uncertified CDFI's ability to use such capital for projects that are intended to catalyze urban and rural economic revitalization.

The Fund also believes that there is good cause to waive the third requirement. Requiring an Applicant to retain the option of recapturing assistance in the event the uncertified CDFI is not certified by the end of the applicable Assessment Period is a matter of business judgment best left to the Applicants themselves. This requirement also potentially imposes added paperwork burdens on Applicants that use standardized loan or investment agreements.

As a result, if an Applicant provides assistance to an uncertified CDFI during the applicable Assessment Period, such assistance may be eligible for an award under the BEA Program if the Fund certifies the entity by the end of the applicable Assessment Period.

Third, as provided in § 1806.200 (a) of the BEA Program Regulations, if an Applicant proposes to carry out CDFI Support Activities or Development and Service Activities, the Applicant shall designate one or more Distressed Communities in which it proposes to carry out those activities. For those Applicants proposing to carry out CDFI Support Activities only (or CDFI Support Activities and Equity Investments in CDFIs) the Fund hereby waives the requirement that an Applicant designate one or more Distressed Communities in which it proposes to carry out the CDFI Support Activities. Instead, the Applicant must sign and submit with its Initial Application, a certification (included in the Initial Application) that it is designating the same Distressed Community as its CDFI partner.

**XIII. Information Sessions**

In connection with the Fiscal Year 2002 funding rounds of its programs, the Fund will conduct In-Person Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core, Intermediary, SECA and NACTA Components of the CDFI Program, and the BEA Program. Registration is required, as the In-Person Information Sessions will be held in secured federal facilities. The Fund anticipates conducting up to 17 In-Person Information Sessions, through October 31, 2001, in the following cities: Anchorage, AK; Boston, MA; Chicago, IL; Dallas, TX; Denver, CO; Honolulu, HI; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Philadelphia, PA; Seattle, WA; and Washington, DC.

In addition to the In-Person Information Sessions listed above, the Fund will broadcast a Televideo Information Session, using interactive video-teleconferencing technology, on November 8, 2001 (tentative date), 1 p.m. to 4 p.m. EST. Registration is required, as the Televideo Information Session will be held in secured federal facilities. The Televideo Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY; Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson, MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

For further information on the Fund's Information Sessions, dates and locations, or to register online for an Information Session, please visit the Fund's website at *www.treas.gov/cdfi.* If

you do not have Internet access, you may register by calling the Fund at (202) 622–8662.

Catalog of Federal Domestic Assistance: 21.021

**Authority:** 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

**Jeffrey C. Berg,**

*Acting Deputy Director for Policy and Programs, Community Development Financial Institutions Fund.*

[FR Doc. 01–23672 Filed 9–21–01; 8:45 am]

BILLING CODE 4810–70–P

Federal Register

Monday,
September 24, 2001

# Part III

# Department of Transportation

## Federal Aviation Administration

**14 CFR Part 91**

**Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan; Final Rule**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 91**

**[Docket No. FAA–2001–10664; SFAR 90]**

**RIN 2120**

## Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action prohibits flight operations within the territory and airspace of Afghanistan by all United States air carriers, U.S. commercial operators, and by all persons exercising the privileges of an airman certificate issued by the FAA unless that airman is a foreign national engaged in the operation of a U.S-registered aircraft for a foreign carrier. This action is deemed necessary to prevent a potential hazard to persons and aircraft engaged in such flight operations for the reasons set forth below.

**DATES:** This action is effective September 19, 2001, and shall remain in effect until further notice.

**FOR FURTHER INFORMATION CONTACT:** David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–3732 or 267–8166.

**SUPPLEMENTARY INFORMATION:**

### Availability of This Action

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service ((703) 321–3339) or the Government Printing Office's (GPO) electronic bulletin board service ((202) 512–1661). Internet users may reach the FAA's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or the GPO Web page at *http://www.access.gpo.gov/nara* for access to recently published rulemaking documents.

Any person may obtain a paper copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Ave, SW, Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the docket number of this action.

### Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information advice about compliance with statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at *http://www.faa.gov/avr/arm/sbrefa.htm* and send electronic inquiries to the following Internet address: *9 AWA SBREFA@faa.gov.*

### Background

The FAA is responsible for the safety of flight in the United States and for the safety of U.S.-registered aircraft and U.S. operators throughout the world. Additionally, the FAA is responsible for issuing rules affecting the safety of air commerce and national security. Title 49 United States Code (U.S.C.) Section 40101(d)(1) provides that the Administrator shall consider the following, among others, as being in the public interest: assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Title 49 U.S.C. Section 44701(a) provides the FAA with broad authority to prescribe regulations governing the practices, methods, and procedures necessary for safety in air commerce and national security.

The United States has aviation safety and national security interests in not having the flights or the individuals affected by this SFAR overfly Afghanistan or land anywhere in Afghanistan for any reason (e.g., an aircraft mechanical problem or fuel problem). Recent unrest in Kabul, coupled with a heightened alert by military forces controlled by the Taliban, may exacerbate coordination and communication problems between military air defense and civil air traffic authorities that could result in an inadvertent attack on civil aviation.

Consequently, the Federal Aviation Administration has determined that it is not safe to overfly Afghan territory and it is not in the national security interests of the United States for those covered by this SFAR to fly within the territory and airspace of Afghanistan. The FAA had previously issued a flight prohibition for Afghanistan in SFAR 67, which expired in May 2000.

### Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

On the basis of the above information, and in furtherance of my responsibilities to promote the safety of flight of civil aircraft in air commerce and to issue aviation rules in the national security interests of the United States, I have determined that action by the FAA is necessary to prevent the injury to U.S. operators or the loss of certain U.S.-registered aircraft conducting flights in the territory and airspace of Afghanistan. Accordingly, I am ordering a prohibition on all flight operations within the territory and airspace of Afghanistan by all United States air carriers, U.S. commercial operators, and all persons exercising the privileges of an airman certificate issued by the FAA unless that person is a foreign national engaged in the operation of a U.S.-registered aircraft for a foreign air carrier. This prohibition also applies to the operation of U.S.-registered aircraft in the territory and airspace of Afghanistan except where the operator is a foreign air carrier. This action is necessary to prevent an undue hazard to aircraft and to protect persons and property on board those aircraft. This SFAR will remain in effect until further notice.

Because the circumstances described herein warrant immediate action by the FAA, I find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further I find that good cause exists under 5 U.S.C. 553(d) for making this rule effective immediately upon issuance. I also find that this action is fully consistent with the obligations under Title 49 U.S.C. Section 40105 to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

### Regulatory Analyses

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(d) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. No regulatory analysis or evaluation accompanies the rule. The FAA certifies that this rule will not have a substantial impact on a substantial number of small entities as defined in the Regulatory Flexibility Act

of 1980, as amended. It also will have no impact on international trade and creates no unfunded mandate for any entity.

**List of Subjects in 14 CFR Part 91**

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Afghanistan.

**The Amendment**

For the reasons set forth above, the Federal Aviation Administration amends 14 CFR Part 91 as follows:

## PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for Part 91 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531; Articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

2. Special Federal Aviation Regulation (SFAR) No. 90 is added to read as follows:

**Special Federal Aviation Regulation No. 90—Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan**

1. *Applicability.* This Special Federal Aviation Regulation (SFAR) No. 90 applies to all U.S. carriers, all U.S. commercial operators and all persons exercising the privileges of an airman certificate issued by the FAA, unless those airmen are foreign nationals engaged in the operation of a U.S.-registered aircraft for a foreign air carrier. This SFAR also applies to all operators using aircraft registered in the United States except where the operator of such aircraft is a foreign air carrier.

2. *Flight prohibition.* Except as provided in paragraph 3 and 4 of this SFAR, no person described in paragraph 1 may conduct flight operations within the territory and airspace of Afghanistan.

3. *Permitted operations.* This SFAR does not prohibit persons described in paragraph 1 from conducting flight operations within the territory and airspace of Afghanistan where such operations are authorized either by exemption issued by the Administrator or by an authorization issued by another agency of the United States Government with the approval of the FAA.

4. *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this SFAR to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of Title 14 CFR 121.557, 121.559, or 135.19, each person who deviates from this rule shall, within ten (10) days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the nearest FAA Flight Standards District Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons therefor.

5. *Expiration.* This Special Federal Aviation Regulation shall remain in effect until further notice.

Issued in Washington, DC, on September 19, 2001.

**Jane F. Garvey,**

*Administrator.*

[FR Doc. 01–23917 Filed 9–20–01; 2:12 pm]

BILLING CODE 4910–13–M

Federal Register

Monday,
September 24, 2001

# Part IV

# The President

## Proclamation 7468—To Modify Duty-Free Treatment Under the Generalized System of Preferences

Federal Register
Vol. 66, No. 185
Monday, September 24, 2001

# Presidential Documents

**Title 3—**

## The President

**Proclamation 7468 of September 19, 2001**

## To Modify Duty-Free Treatment Under the Generalized System of Preferences

**By the President of the United States of America**

**A Proclamation**

1. Section 503(c)(2)(C) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2463(c)(2)(C)), provides that a country that is no longer treated as a beneficiary developing country with respect to an eligible article for purposes of the Generalized System of Preferences (GSP) because imports of the article from that country exceeded the competitive need limitations in section 503(c)(2)(A) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)) may be redesignated as a beneficiary developing country with respect to the article if imports of the article from that country did not exceed those limitations during the preceding calendar year.

2. Pursuant to section 503(c)(2)(C) of the 1974 Act, I have determined that Indonesia should be redesignated as a beneficiary developing country with respect to certain eligible articles that previously had been imported in quantities exceeding the competitive need limitations of section 503(c)(2)(A).

3. Section 604 of the 1974 Act (19 U.S.C. 2483), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including title V and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide that Indonesia, which has not been treated as a beneficiary developing country with respect to certain eligible articles, should be redesignated as a beneficiary developing country with respect to those articles for purposes of the GSP:

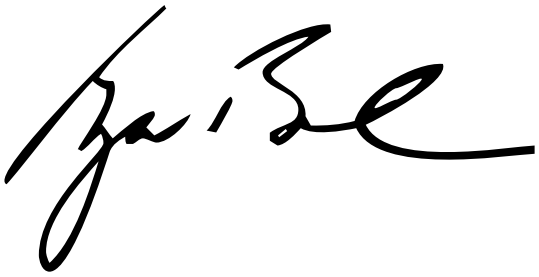
(a) general note 4(d) to the HTS is modified as provided in paragraph (1) of the Annex to this proclamation; and

(b) the Rates of Duty 1-Special subcolumn for each of the HTS subheadings enumerated in paragraph (2) of the Annex to this proclamation is modified as provided in such paragraph.

(2) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(3) The modifications made by the Annex to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



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## Annex

### Modifications to the Harmonized Tariff Schedule of the United States (HTS)

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of publication of this proclamation in the *Federal Register*.

(1). General note 4(d) to the HTS is modified by:

(a). deleting the following subheadings and Indonesia set out opposite such subheading:

| | |
|---|---|
| 1301.90.40 | 4602.10.23 |
| 1605.90.55 | 9001.30.00 |
| 4412.13.25 | |

(b). deleting Indonesia set out opposite the following subheadings:

| | |
|---|---|
| 1604.14.50 | 4412.14.30 |
| 2603.00.00 | 4412.14.55 |
| 3824.60.00 | 4412.92.50 |

(2). For the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A*" and inserting an "A" in lieu thereof.

| | |
|---|---|
| 1301.90.40 | 4602.10.23 |
| 1605.90.55 | 9001.30.00 |
| 4412.13.25 | |

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**Federal Register, Administrative Committee**

Federal Register publications; prices and availability; published 8-24-01

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Tomatoes grown in—

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Air pollution control:

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Air quality implementation plans; approval and promulgation; various States:

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Oranges and grapefruit; grade standards; comments due by 10-1-01; published 9-24-01

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**CONSUMER PRODUCT SAFETY COMMISSION**

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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/plawcurr.html*.

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**H.R. 2882/P.L. 107–37**

To provide for the expedited payment of certain benefits for a public safety officer who was killed or suffered a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty in connection with the terrorist attacks of September 11, 2001. (Sept. 18, 2001; 115 Stat. 219)

**H.R. 2888/P.L. 107–38**

2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Sept. 18, 2001; 115 Stat. 220)

**S.J. Res. 22/P.L. 107–39**

Expressing the sense of the Senate and House of Representatives regarding the terrorist attacks launched against the United States on September 11, 2001. (Sept. 18, 2001; 115 Stat. 222)

**S.J. Res. 23/P.L. 107–40**

Authorization for Use of Military Force (Sept. 18, 2001; 115 Stat. 224)

**H.R. 2133/P.L. 107–41**

To establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education. (Sept. 18, 2001; 115 Stat. 226)

**Last List August 29, 2001**

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| 0–199 | (869–044–00071–7) | 53.00 | Apr. 1, 2001 |
| 200–499 | (869–044–00072–5) | 45.00 | Apr. 1, 2001 |
| 500–699 | (869–044–00073–3) | 27.00 | Apr. 1, 2001 |
| 700–1699 | (869–044–00074–1) | 55.00 | Apr. 1, 2001 |
| 1700–End | (869–044–00075–0) | 28.00 | Apr. 1, 2001 |
| **25** | (869–044–00076–8) | 57.00 | Apr. 1, 2001 |
| **26 Parts:** | | | |
| §§ 1.0-1–1.60 | (869–044–00077–6) | 43.00 | Apr. 1, 2001 |
| §§ 1.61–1.169 | (869–044–00078–4) | 57.00 | Apr. 1, 2001 |
| §§ 1.170–1.300 | (869–044–00079–2) | 52.00 | Apr. 1, 2001 |
| §§ 1.301–1.400 | (869–044–00080–6) | 41.00 | Apr. 1, 2001 |
| §§ 1.401–1.440 | (869–042–00081–1) | 47.00 | Apr. 1, 2000 |
| §§ 1.441-1.500 | (869-044-00082-2) | 45.00 | Apr. 1, 2001 |
| §§ 1.501–1.640 | (869–044–00083–1) | 44.00 | Apr. 1, 2001 |
| §§ 1.641–1.850 | (869–044–00084–9) | 53.00 | Apr. 1, 2001 |
| §§ 1.851–1.907 | (869–044–00085–7) | 54.00 | Apr. 1, 2001 |
| §§ 1.908–1.1000 | (869–044–00086–5) | 53.00 | Apr. 1, 2001 |
| §§ 1.1001–1.1400 | (869–044–00087–3) | 55.00 | Apr. 1, 2001 |
| §§ 1.1401–End | (869–044–00088–1) | 58.00 | Apr. 1, 2001 |
| 2–29 | (869–044–00089–0) | 54.00 | Apr. 1, 2001 |
| 30–39 | (869–044–00090–3) | 37.00 | Apr. 1, 2001 |
| 40–49 | (869–044–00091–1) | 25.00 | Apr. 1, 2001 |
| 50–299 | (869–044–00092–0) | 23.00 | Apr. 1, 2001 |
| 300–499 | (869–044–00093–8) | 54.00 | Apr. 1, 2001 |
| 500–599 | (869–044–00094–6) | 12.00 | [5] Apr. 1, 2001 |
| 600–End | (869–044–00095–4) | 15.00 | Apr. 1, 2001 |
| **27 Parts:** | | | |
| 1–199 | (869–044–00096–2) | 57.00 | Apr. 1, 2001 |

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| 200–End | (869–044–00097–1) | 26.00 | Apr. 1, 2001 |
| **28 Parts:** | | | |
| 0-42 | (869–044–00098–9) | 55.00 | July 1, 2001 |
| 43-end | (869-044-00099-7) | 50.00 | July 1, 2001 |
| **29 Parts:** | | | |
| 0–99 | (869–042–00100–1) | 33.00 | July 1, 2000 |
| 100–499 | (869–044–00101–2) | 14.00 | [6]July 1, 2001 |
| 500–899 | (869–044–00102–1) | 47.00 | [6]July 1, 2001 |
| 900–1899 | (869–044–00103–9) | 33.00 | July 1, 2001 |
| 1900–1910 (§§ 1900 to 1910.999) | (869–042–00104–4) | 46.00 | [6]July 1, 2000 |
| 1910 (§§ 1910.1000 to end) | (869–042–00105–2) | 28.00 | [6]July 1, 2000 |
| 1911–1925 | (869–044–00106–3) | 20.00 | [6]July 1, 2001 |
| 1926 | (869–042–00107–9) | 30.00 | [6]July 1, 2000 |
| 1927–End | (869–042–00108–7) | 49.00 | July 1, 2000 |
| **30 Parts:** | | | |
| *1–199 | (869–044–00109–8) | 52.00 | July 1, 2001 |
| 200–699 | (869–044–00110–1) | 45.00 | July 1, 2001 |
| 700–End | (869–044–00111–7) | 53.00 | July 1, 2001 |
| **31 Parts:** | | | |
| 0–199 | (869–044–00112–8) | 32.00 | July 1, 2001 |
| 200–End | (869–042–00113–3) | 53.00 | July 1, 2000 |
| **32 Parts:** | | | |
| 1–39, Vol. I | | 15.00 | [2] July 1, 1984 |
| 1–39, Vol. II | | 19.00 | [2] July 1, 1984 |
| 1–39, Vol. III | | 18.00 | [2] July 1, 1984 |
| 1–190 | (869–044–00114–4) | 51.00 | [6]July 1, 2001 |
| *191–399 | (869–044–00115–2) | 57.00 | July 1, 2001 |
| 400–629 | (869–044–00116–8) | 35.00 | [6]July 1, 2001 |
| 630–699 | (869–042–00117–6) | 25.00 | July 1, 2000 |
| *700–799 | (869–044–00118–7) | 42.00 | July 1, 2001 |
| 800–End | (869–042–00119–2) | 32.00 | July 1, 2000 |
| **33 Parts:** | | | |
| *1–124 | (869–044–00120–9) | 45.00 | July 1, 2001 |
| 125–199 | (869–042–00121–4) | 45.00 | July 1, 2000 |
| *200–End | (869–044–00122–5) | 45.00 | July 1, 2001 |
| **34 Parts:** | | | |
| *1–299 | (869–044–00123–3) | 43.00 | July 1, 2001 |
| 300–399 | (869–042–00124–9) | 28.00 | July 1, 2000 |
| 400–End | (869–042–00125–7) | 54.00 | July 1, 2000 |
| **35** | (869–042–00126–5) | 10.00 | July 1, 2000 |
| **36 Parts** | | | |
| *1–199 | (869–044–00127–6) | 34.00 | July 1, 2001 |
| 200–299 | (869–042–00128–1) | 24.00 | July 1, 2000 |
| 300–End | (869–042–00129–0) | 43.00 | July 1, 2000 |
| **37** | (869–042–00130–3) | 32.00 | July 1, 2000 |
| **38 Parts:** | | | |
| 0–17 | (869–042–00131–1) | 40.00 | July 1, 2000 |
| 18–End | (869–044–00132–2) | 55.00 | July 1, 2001 |
| **39** | (869–042–00133–8) | 28.00 | July 1, 2000 |
| **40 Parts:** | | | |
| 1–49 | (869–042–00134–6) | 37.00 | July 1, 2000 |
| *50–51 | (869–044–00135–7) | 38.00 | July 1, 2001 |
| 52 (52.01–52.1018) | (869–042–00136–2) | 36.00 | July 1, 2000 |
| 52 (52.1019–End) | (869–042–00137–1) | 44.00 | July 1, 2000 |
| 53–59 | (869–042–00138–9) | 21.00 | July 1, 2000 |
| 60 | (869–042–00139–7) | 66.00 | July 1, 2000 |
| 61–62 | (869–042–00140–1) | 23.00 | July 1, 2000 |
| 63 (63.1–63.1119) | (869–042–00141–9) | 66.00 | July 1, 2000 |
| 63 (63.1200–End) | (869–042–00142–7) | 49.00 | July 1, 2000 |
| 64–71 | (869–042–00143–5) | 12.00 | July 1, 2000 |
| 72–80 | (869–042–00144–3) | 47.00 | July 1, 2000 |
| 81–85 | (869–042–00145–1) | 36.00 | July 1, 2000 |
| 86 | (869–042–00146–0) | 66.00 | July 1, 2000 |
| 87-99 | (869–044–00150–1) | 54.00 | July 1, 2001 |
| 136–149 | (869–042–00148–6) | 42.00 | July 1, 2000 |
| 150–189 | (869–042–00149–4) | 38.00 | July 1, 2000 |
| 190–259 | (869–042–00150–8) | 25.00 | July 1, 2000 |
| *260–265 | (869–044–00155–1) | 45.00 | July 1, 2001 |
| 266–299 | (869–042–00152–4) | 35.00 | July 1, 2000 |
| 300–399 | (869–044–00157–8) | 41.00 | July 1, 2001 |
| 400–424 | (869–044–00158–6) | 51.00 | July 1, 2001 |
| 425–699 | (869–044–00159–4) | 55.00 | July 1, 2001 |
| 700–789 | (869–042–00156–7) | 46.00 | July 1, 2000 |
| 790–End | (869–042–00157–5) | 23.00 | [6]July 1, 2000 |
| **41 Chapters:** | | | |
| 1, 1–1 to 1–10 | | 13.00 | [3] July 1, 1984 |
| 1, 1–11 to Appendix, 2 (2 Reserved) | | 13.00 | [3] July 1, 1984 |
| 3–6 | | 14.00 | [3] July 1, 1984 |
| 7 | | 6.00 | [3] July 1, 1984 |
| 8 | | 4.50 | [3] July 1, 1984 |
| 9 | | 13.00 | [3] July 1, 1984 |
| 10–17 | | 9.50 | [3] July 1, 1984 |
| 18, Vol. I, Parts 1–5 | | 13.00 | [3] July 1, 1984 |
| 18, Vol. II, Parts 6–19 | | 13.00 | [3] July 1, 1984 |
| 18, Vol. III, Parts 20–52 | | 13.00 | [3] July 1, 1984 |
| 19–100 | | 13.00 | [3] July 1, 1984 |
| 1–100 | (869–044–00162–4) | 22.00 | July 1, 2001 |
| 101 | (869–042–00159–1) | 37.00 | July 1, 2000 |
| *102–200 | (869–044–00164–1) | 33.00 | July 1, 2001 |
| *201–End | (869–044–00165–9) | 24.00 | July 1, 2001 |
| **42 Parts:** | | | |
| 1–399 | (869–042–00162–1) | 53.00 | Oct. 1, 2000 |
| 400–429 | (869–042–00163–0) | 55.00 | Oct. 1, 2000 |
| 430–End | (869–042–00164–8) | 57.00 | Oct. 1, 2000 |
| **43 Parts:** | | | |
| 1–999 | (869–042–00165–6) | 45.00 | Oct. 1, 2000 |
| 1000–end | (869–042–00166–4) | 55.00 | Oct. 1, 2000 |
| **44** | (869–042–00167–2) | 45.00 | Oct. 1, 2000 |
| **45 Parts:** | | | |
| 1–199 | (869–042–00168–1) | 50.00 | Oct. 1, 2000 |
| 200–499 | (869–042–00169–9) | 29.00 | Oct. 1, 2000 |
| 500–1199 | (869–042–00170–2) | 45.00 | Oct. 1, 2000 |
| 1200–End | (869–042–00171–1) | 54.00 | Oct. 1, 2000 |
| **46 Parts:** | | | |
| 1–40 | (869–042–00172–9) | 42.00 | Oct. 1, 2000 |
| 41–69 | (869–042–00173–7) | 34.00 | Oct. 1, 2000 |
| 70–89 | (869–042–00174–5) | 13.00 | Oct. 1, 2000 |
| 90–139 | (869–042–00175–3) | 41.00 | Oct. 1, 2000 |
| 140–155 | (869–042–00176–1) | 23.00 | Oct. 1, 2000 |
| 156–165 | (869–042–00177–0) | 31.00 | Oct. 1, 2000 |
| 166–199 | (869–042–00178–8) | 42.00 | Oct. 1, 2000 |
| 200–499 | (869–042–00179–6) | 36.00 | Oct. 1, 2000 |
| 500–End | (869–042–00180–0) | 23.00 | Oct. 1, 2000 |
| **47 Parts:** | | | |
| 0–19 | (869–042–00181–8) | 54.00 | Oct. 1, 2000 |
| 20–39 | (869–042–00182–6) | 41.00 | Oct. 1, 2000 |
| 40–69 | (869–042–00183–4) | 41.00 | Oct. 1, 2000 |
| 70–79 | (869–042–00184–2) | 54.00 | Oct. 1, 2000 |
| 80–End | (869–042–00185–1) | 54.00 | Oct. 1, 2000 |
| **48 Chapters:** | | | |
| 1 (Parts 1–51) | (869–042–00186–9) | 57.00 | Oct. 1, 2000 |
| 1 (Parts 52–99) | (869–042–00187–7) | 45.00 | Oct. 1, 2000 |
| 2 (Parts 201–299) | (869–042–00188–5) | 53.00 | Oct. 1, 2000 |
| 3–6 | (869–042–00189–3) | 40.00 | Oct. 1, 2000 |
| 7–14 | (869–042–00190–7) | 52.00 | Oct. 1, 2000 |
| 15–28 | (869–042–00191–5) | 53.00 | Oct. 1, 2000 |
| 29–End | (869–042–00192–3) | 38.00 | Oct. 1, 2000 |
| **49 Parts:** | | | |
| 1–99 | (869–042–00193–1) | 53.00 | Oct. 1, 2000 |
| 100–185 | (869–042–00194–0) | 57.00 | Oct. 1, 2000 |
| 186–199 | (869–042–00195–8) | 17.00 | Oct. 1, 2000 |
| 200–399 | (869–042–00196–6) | 57.00 | Oct. 1, 2000 |
| 400–999 | (869–042–00197–4) | 58.00 | Oct. 1, 2000 |
| 1000–1199 | (869–042–00198–2) | 25.00 | Oct. 1, 2000 |
| 1200–End | (869–042–00199–1) | 21.00 | Oct. 1, 2000 |
| **50 Parts:** | | | |
| 1–199 | (869–042–00200–8) | 55.00 | Oct. 1, 2000 |
| 200–599 | (869–042–00201–6) | 35.00 | Oct. 1, 2000 |

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| 600–End | (869–042–00202–4) | 55.00 | Oct. 1, 2000 |
| CFR Index and Findings Aids | (869–044–00047–4) | 56.00 | Jan. 1, 2001 |
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| Complete set (one-time mailing) | | 264.00 | 1996 |

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..