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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV01–948–1 FR]

Irish Potatoes Grown in Colorado; Modification of Area No. 3 Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases exemptions to the handling regulation prescribed under the marketing order (order) for Colorado Area No. 3 potatoes. The order regulates the handling of Colorado potatoes and is administered locally by the Colorado Potato Administrative Committee for Area No. 3 (Committee). This rule exempts potatoes shipped for the purpose of experimentation and the manufacture or conversion into specified products from the grade, size, maturity, inspection, and assessment requirements of the order. Relaxing handling requirements provides handlers with greater marketing flexibility, producers with increased returns, and consumers with more choices in buying fresh potatoes. This rule also clarifies the regulatory text by specifying that potatoes shipped for livestock feed, charity, and certified seed are exempt from assessment requirements.

EFFECTIVE DATE: This final rule becomes effective October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948 (7 CFR part 948), both as amended, regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule 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.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule increases exemptions to the handling regulation prescribed under the order. This rule exempts potatoes shipped for the purpose of experimentation and the manufacture or conversion into specified products from the grade, size, maturity, inspection and assessment requirements of the order. These exemptions were unanimously recommended by the Committee. This rule also clarifies the regulatory text by specifying that potatoes shipped for livestock feed, charity, and certified seed are exempt from assessment requirements.

Section 948.22 authorizes the issuance of regulations for grade, size, quality, maturity, and pack for any variety or varieties of potatoes grown in different portions of the production area during any period. Section 948.23 authorizes the issuance of regulations that modify, suspend, or terminate requirements issued under § 948.22 or to facilitate the handling of potatoes for special purposes. Section 948.24 requires adequate safeguards be prescribed to ensure that potatoes handled pursuant to § 948.23 enter authorized trade channels. Safeguard procedures for special purpose shipments are specified in §§ 948.120 through 948.125. Section 948.387 of the order's handling regulations establishes the grade, size, maturity, and inspection requirements for Area No. 3. The Committee's assessment rate is established under § 948.215.

At its meeting on December 14, 2000, the Committee unanimously recommended that potatoes shipped for the purpose of experimentation and the manufacture or conversion into specified products be exempt from the grade, size, maturity, and inspection requirements provided under the order's regulations for Area No. 3. The Committee recommended that experimentation and the manufacture or conversion into specified products be added under 948.387(d) as special purpose shipments.

To apply for the exemption, handlers will obtain a Certificate of Privilege for handling such potatoes and furnish the Committee such information as it may require to track shipments, determine whether applicable requirements have been met, and verify whether proper disposition has occurred.

At a subsequent meeting on March 8, 2001, the Committee reconfirmed its

earlier action and, in addition, unanimously recommended that shipments for livestock feed, charity, certified seed, and for the purpose of experimentation and the manufacture or conversion into specified products be exempt from assessment requirements. Shipments of potatoes for livestock feed, charity, and certified seed are specified as special purpose shipments and are exempt from grade, size, maturity, and inspection requirements.

Some producers and handlers within the production area are interested in developing new uses for fresh potatoes using experimental varieties and packs. The Committee also anticipates that some handlers may want to ship traditional varieties, or experimental varieties, for use in the manufacture or conversion into special products, or perform the manufacture or conversion themselves prior to shipment. Handlers are, for example, attempting to develop new special products such as fresh cut potatoes shipped in vacuum-sealed bags. Handlers have also expressed a desire to experiment with the shipment of potatoes of different varieties in the same container. Prior to this rule, this was not possible because the potatoes did not meet the minimum grade requirement that a particular lot of potatoes must have ''similar'' varietal characteristics.

The Committee strongly encourages innovation that could result in the development of new varieties, markets, or opportunities for the expanded use of fresh forms of potato products, such as fresh cut potatoes in vacuum-sealed bags, thus benefiting the Colorado potato industry. Some of the new varieties have irregular shapes or are small in size, and did not meet minimum order requirements. This prevented them from being shipped except under the minimum quantity exemption of 1,000 pounds specified in paragraph (f) of § 948.387. Thus, handlers were prevented from shipping larger quantities.

For the purpose of this rule, the term ''manufacture or conversion into specified products'' means the preparation of potatoes for market into products by peeling, slicing, dicing, applying material to prevent oxidation, or other means approved by the Committee, but not including other processing. Under the prior regulation, potatoes for manufacture or conversion into specified products were required to be inspected and certified as meeting the specified quality requirements prior to preparation for market.

Prior to this final rule, the handling regulations required that all potatoes shipped to fresh market, with the exception of those meeting minimum quantity and special purpose exemptions, be inspected and assessed. These regulations did not provide adequate relief for commercially viable shipments of non-traditional varieties, potatoes for experimentation, or the shipment of potatoes for the manufacture or conversion into products. This rule exempts such shipments and relieves handlers of this regulatory burden.

This relaxation of the Area No. 3 handling regulation is expected to encourage new product development that could lead to market expansion, benefiting producers, handlers, buyers, and consumers. By relaxing the handling requirements on traditional and experimental varieties and on new and innovative fresh potato products, additional opportunities should be available to increase the fresh utilization of Colorado potatoes.

The Committee also unanimously recommended that shipments of potatoes for livestock feed, charity, and certified seed potatoes be exempt from assessment requirements. This Committee recommendation was made with the intent of treating all special purpose shipments in the same manner. As explained previously, shipments to these fresh outlets are exempt from the grade, size, maturity, and inspection requirements. The order only regulates, however, the shipment of potatoes outside the State of Colorado. It is very uncommon for Area No. 3 potatoes to be shipped for livestock feed, charity, or certified seed outside of the State of Colorado. It is not expected that exempting such shipments from assessments will have the effect of increasing shipments. Thus, this rule is expected to have little impact on handlers or the Committee's assessment income. And finally, this rule clarifies the handling regulation to indicate that special purpose shipments for canning, freezing, and ''other processing'' are exempt from assessments. Such shipments are exempt from regulation under federal marketing orders in conformity with an amendment to the Act (Public Law No. 92–233, Feb. 15, 1972).

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, the AMS has prepared this final regulatory flexibility analysis.

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. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 13 handlers of Colorado Area No. 3 potatoes who are subject to regulation under the marketing order and approximately 31 producers of Colorado potatoes in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000.

Based upon information provided by the Committee, all handlers of Area No. 3 potatoes have shipped under $5,000,000 worth of potatoes during the most recent season for which numbers are available. In addition, information reported by the National Agricultural Statistics Service was considered in determining the number of large and small producers by acreage, production, and producer prices. According to the information provided, the average yield per acre was 340 hundredweight, the average farm size was 53 acres, and the season average producer price was $5.95 per hundredweight for 1999 crop. This equates to average gross receipts to producers of approximately $107,200. Based on the foregoing, it can be concluded that all handlers and the majority of producers of Area 3 potatoes may be classified as small entities, excluding receipts from other sources.

This final rule exempts special purpose shipments of potatoes from the grade, size, maturity, inspection and assessment requirements prescribed under the order's handling regulations for Colorado Area No. 3 potatoes. Based on authority in §§ 948.22, 948.23, and 948.24 of the order, the Committee at its meeting on December 14, 2000, unanimously recommended that potatoes shipped for the purpose of experimentation and the manufacture or conversion into specified products be exempt from the grade, size, maturity, and inspection requirements of the order. The Committee at its meeting on March 8, 2001, recommended that potatoes for experimentation and the manufacture or conversion into specified products be exempt from assessment requirements. It also recommended that the regulatory text of the applicable provisions be clarified by specifying that potatoes shipped for

livestock feed, charity, and certified seed are exempt from assessment requirements.

Producers and handlers within the production area are interested in developing innovative uses for fresh potatoes. The Committee anticipates that some handlers may want to ship traditional or experimental varieties for the manufacture or conversion of potatoes into fresh forms such as fresh cut french fries using experimental packaging and preservation methods. The Committee strongly encourages innovation that could result in the development of new varieties and market opportunities for the expanded use of fresh forms of potato products, such as those packaged in vacuum-sealed bags. The relaxation of Area No. 3's handling and assessment requirements is expected to encourage new product development, which benefits producers, handlers, buyers, and consumers by increasing the fresh utilization of Colorado potatoes. The changes are expected to have a positive economic impact on the Colorado potato industry.

As with all special purpose shipments, handlers are required to apply and obtain a Certificate of Privilege for handling such potatoes and furnish the Committee such information as they may require to track shipments, determine whether applicable requirements have been met, and verify whether proper disposition has occurred. The intent of the Committee is to keep reporting requirements to a minimum level necessary to monitor compliance while determining the viability and extent of any changes in the marketing of the area potatoes. There is no available information detailing how many potatoes this relaxation will allow to be marketed. During the previous growing season, one producer planted less than 20 acres of the non-traditional, experimental type varieties on a trial basis. No viable alternatives to this action were identified to ensure innovations in marketing and product development. Furthermore, the goals expressed by the Committee could not be solved absent this action.

The Committee estimates that two or three handlers may apply for and obtain a Certificate of Privilege for the handling of potatoes for experimentation or for the manufacture or conversion into specified products. It is estimated that the time taken by the handlers who apply will total less than ten hours and this time is currently approved under OMB No. 0581–0178 by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

In addition, the Committee's meetings were widely publicized throughout the Colorado potato industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, those held on December 14, 2000, and March 8, 2001, were public meetings and all entities, both large and small, were able to express their views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on August 2, 2001 (66 FR 40155). Copies of the rule were mailed or sent via facsimile to all Committee members and potato handlers. Finally, the rule was made available through the Internet by the Office of the Federal Register and the Department. A 20-day comment period ending August 22, 2001, was provided to allow interested persons to respond to the proposal. No comments were received. Accordingly, no changes are made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already shipping potatoes from the 2000–01 crop and handlers want to take advantage of the relaxed requirements as soon as possible. Further, handlers are aware of this rule, which was recommended at two public meetings. Also, a 20-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 948.387, paragraph (d)(1) introductory text is revised, a new paragraph (d)(1)(v) is added, and in paragraph (g) a new sentence is added before the last sentence to read as follows:

§ 948.387 Handling regulation.

* * * * *

(d) * * *

(1) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

* * * * *

(v) Experimentation and the manufacture or conversion into specified products.

* * * * *

(g) *Definitions.* * * * The term *manufacture or conversion into specified products* means the preparation of potatoes for market into products by peeling, slicing, dicing, applying material to prevent oxidation, or other means approved by the committee, but not including other processing. * * *

* * * * *

Dated: September 21, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–24314 Filed 9–27–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 214

[INS 1946–98]

RIN 1115–AF29

Delegation of the Adjudication of Certain Temporary Agricultural Worker (H–2A) Petitions, Appellate and Revocation Authority for Those Petitions to the Secretary of Labor

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule; delay of effective date.

SUMMARY: The Immigration and Naturalization Service (Service) is delaying, for the second time, the effective date of a final rule previously published in the **Federal Register** on July 13, 2000, at 65 FR 43528–43534, which delegated the adjudication of certain petitions for agricultural workers (H–2A) to the United States Department of Labor (DOL). This action is necessary to allow additional time for the DOL to effectively implement the delegation of authority, develop new systems and procedures, and to train and brief members of the effected public and the employment and training community in the new systems and procedures.

DATES: The effective date for the regulation published on July 13, 2000, at 65 FR 43528–43534, amending 8 CFR Parts 103 and 214, which was delayed from November 13, 2000, until October 1, 2001, by regulation published in the **Federal Register** on November 13, 2000, at 65 FR 67616–67617, is further delayed until October 1, 2002.

FOR FURTHER INFORMATION CONTACT: John W. Brown, Adjudications Officer, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 353–8177.

SUPPLEMENTARY INFORMATION:

Rulemaking Delegating H–2A Authority to DOL and First Extension

On July 13, 2000, the Service published in the **Federal Register** at 65 FR 43528–43534 a final rule (INS No. 1946–98) delegating to the DOL the authority to adjudicate certain H–2A petitions for the temporary employment of nonimmigrant aliens in agriculture in the United States. The final rule, which amended 8 CFR parts 103 and 214, was to take effect on November 13, 2000.

Also on July 13, 2000, the DOL published a final rule at 65 FR 43538 with an effective date of November 13, 2000, implementing the above-mentioned delegation of authority from the Service to the DOL.

On November 13, 2000, the Service at 65 FR 67616 published a final rule; and DOL at 65 FR 67628 published an interim final rule delaying the effective date of their respective July 13, 2000, H–2A rules until October 1, 2001.

Rulemaking Regarding Procedures for Processing H–2A Petitions

On July 13, 2000, and concurrently with the H–2A delegation of authority rule (INS No. 1946–98), the Service published a proposed rule for comment (INS No. 2059–00) proposing among other things, that all petition requests, extensions of stay, and change of status petitions must be filed with DOL and that the current Service petition fee would be collected by DOL as part of the combined fee.

Concurrently with publication of INS No. 2059–00, the DOL published at 65 FR 43545 a companion notice of proposed rulemaking (NPRM) setting forth implementation measures necessary for the successful implementation of the delegation of authority to adjudicate petitions.[1]

On August 17, 2000, at 65 FR 50166 the Service reopened and extended the comment period for INS No. 2059–00. Also on August 17, 2000, at 65 FR 50170 the DOL reopened and extended the comment period on its NPRM that is a companion to INS No. 2059–00.

Additional Information Needed Before H–2A Delegation Rules Can Be Finalized

Commenters raised a number of issues about the proposed rules. The comments received by the DOL as a result of the August 17, 2000, reopening and extension of the proposed rule did not provide sufficient information to permit the DOL to draft a final rule. As a result, the DOL has decided to reopen and extend the comment period on its proposed rule published at 65 FR 43545 (July 13, 2000). In addition, DOL intends to hold informal briefings to obtain additional information necessary to address the concerns of commenters and resolve a number of issues raised during the initial comment period on its proposed rule.

Finalizing both the Service and DOL proposed rules is essential to the effective implementation of the Service delegation of authority to the DOL to adjudicate petitions for temporary employment of nonimmigrant aliens in the United States. Allowing the Service's final rule to become effective without finalizing the action on the proposed rule published by the DOL would lead to administrative uncertainty and result in confusion on the part of employers, agricultural workers, and other interested parties. In response to DOL's intended actions to reopen and extend the comment period on the July 13, 2000, proposed rule and their additional plans to hold informal briefings, the Service has concluded that it is necessary to delay the effective date of the final rule until the rulemaking on the DOL companion proposal is completed. Therefore, the Service is delaying the effective date of the July 13, 2000, final rule until October 1, 2002.

Dated: September 25, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–24331 Filed 9–25–01; 2:04 pm]

BILLING CODE 4410–10–P

[1] Among the DOL implementation measures was a new form, Form ETA 9079, Application for Alien Employment Certification and H–2A Petition, which consolidated two current forms, Form ETA 750, Application for Alien Employment Certification, and Service Form I–129, Petition for Nonimmigrant Workers. The NPRM also set forth the implementation of a new fee schedule to collect a combined fee for processing the petition and labor certification application. It is contemplated that under the administrative procedures developed by the Service and the Employment and Training Administration to implement the delegation of the petition authority from the Service to the DOL, the DOL will collect the petition fee on behalf of the Service and will be reimbursed by the Service for the costs involved in processing the H–2A petition.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–29–AD; Amendment 39–12446; AD 2001–19–06]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Dart 525, 525F, 528, 528D, 529, 529D, 530, 532, 535, 542, and 552 Series Turboprop 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 Rolls-Royce plc (RR) Dart 525, 525F, 528, 528D, 529, 529D, 530, 532, 535, 542, and 552 series turboprop engines. This action requires the removal of certain part number (P/N) high pressure turbine (HPT) discs and replacement with serviceable discs. This

amendment is prompted by three reports of uncontained HPT disc failures and the manufacturer's investigation into disc failure. The actions specified in this AD are intended to prevent HPT disc failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective October 15, 2001. Comments for inclusion in the Rules Docket must be received on or before November 27, 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–29–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 Rolls-Royce plc, P.O. Box 31 Derby, DE24 8BJ, United Kingdom; telephone 011–44–1332–242424; fax 011–44–1332–249936. 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: Keith Mead, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7744; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the FAA that an unsafe condition may exist on RR Dart 525, 525F, 528, 528D, 529, 529D, 530, 532, 535, 542, and 552 series turboprop engines. The CAA advises that three reports of uncontained HPT disc failures have occurred on in-service engines. The results of an investigation reveal that fretting, wear, and open clearance between the HPT disc diaphragm seal arm and intermediate pressure turbine (IPT) disc diaphragm seal arm can result in a high-response disc vibration mode, which results in high-cycle-fatigue (HCF) fractures in the HPT disc. The manufacturer, through testing, has shown that by adding an interference fit between the HPT and IPT seal arms, the discs become effectively preloaded against each other, significantly reducing disc diaphragm vibratory stresses. This condition, if not corrected, could result in HPT disc failure, which could result in an uncontained engine failure and damage to the airplane.

Bilateral Airworthiness Agreement

This engine model is manufactured in the UK, and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

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 Rolls-Royce plc Dart 525, 525F, 528, 528D, 529, 529D, 530, 532, 535, 542, and 552 series turboprop engines of the same type design, this AD is being issued to prevent HPT disc failure, which could result in an uncontained engine failure and damage to the airplane. This AD requires the scheduled replacement of HPT discs of the affected design with serviceable discs. The cycles and calendar dates of the replacement schedule are based on risk analysis and the need for owners/operators to have an adequate length of time to accomplish this AD.

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–29–AD.'' The postcard will be date stamped and returned to the commenter.

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.

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, 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:

2001–19–06 Rolls-Royce plc: Amendment 39–12446. Docket 2001–NE–29–AD.

Applicability

This airworthiness directive (AD) is applicable to Rolls-Royce Dart 525, 525F, 528–7E, 528D–7E, 529–7E, 529D–7E, 529–7H, 529D–7H, 529–8E, 529D–8E, 529–8H, 529D–8H, 529–8X, 529D–8X, 529–8Y, 529D–8Y, 529–8Z, 529D–8Z, 530, 532–7, 532–7L, 532–7N, 532–7P, 532–7R, 535–2, 535–7R, 542–10, 542–10J, 542–10K, 542–4, 542–4K, 552–2, 552–7, 552–7R series turbofan engines that contain high pressure turbine (HPT) discs having the part numbers listed in the following Table 1:

TABLE 1.—PART NUMBERS OF APPLICABLE HPT DISCS

ARK49431	ARK49434	ARK49437	A.RK50111	A.RK50120
A.RK50121	BRK49431	BRK49434	BRK49437	B.RK50111
B.RK50120	B.RK50121	CRK49431	CRK49434	CRK49437
C.RK50111	C.RK50120	C.RK50121	RK33092	RK33097
RK33099	RK33104	RK33114	RK33117	RK33119
RK33122	RK33125	RK33130	RK33131	RK33214
RK33466	RK33499	RK34206	RK34207	RK34208
RK34209	RK34210	RK34211	RK34212	RK34213
RK34671	RK34674	RK36477	RK36479	RK36481
RK36483	RK36485	RK36487	RK36489	RK36491
RK38592	RK38593	RK38594	RK38595	RK40712
RK40713	RK40714	RK40715	RK40716	RK40717
RK40718	RK40719	RK40720	RK40721	RK40722
RK40723	RK40724	RK40725	RK40726	RK40727
RK43749	RK43750	RK43751	RK44112	RK44113
RK44114	RK44115	RK44116	RK44117	RK44118
RK44119	RK44120	RK44121	RK44122	RK44123
RK44124	RK44125	RK44126	RK44127	RK44310
RK44311	RK44312	RK44328	RK44342	RK44374
RK44397	RK45565	RK46136	RK46485	RK46486
RK46487	RK46488	RK46489	RK46490	RK46491
RK46492	RK46493	RK46494	RK46495	RK46496
RK46497	RK46498	RK46499	RK46531	RK46828
RK48339	RK49121	RK49209	RK49210	RK49211
RK49431	RK49434	RK49437	RK50111	RK50120
RK50121				

These engines are installed on, but not limited to BAC Viscount Type 810 aircraft, Fokker F.27 Friendship Mark 200, 400, 500, and 600 series aircraft, Maryland Air Industries, Inc. Fairchild F–27A, F, G, M, J, FH–227, FH–227B, C, D, and E series aircraft, Gulfstream Aerospace Model G–159 aircraft, BAE SYSTEMS (Operations) Limited HS 748 series aircraft, Mitsubishi Heavy Industries, Ltd. YS–11 series aircraft, and Convair CV600/640 series aircraft.

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 request should include specific proposed actions to address it.

Compliance

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

To prevent HPT disc failure, which could result in an uncontained engine failure and damage to the airplane, do the following:

(a) Remove from service the discs listed by part number in Table 1 of this AD, in accordance with the following Table 2 of this AD:

TABLE 2.—REMOVAL SCHEDULE

If:	Then:
(1) Engine is fitted with a listed HPT disc with more than 15,000 cycles since new (CSN) on effective date of this AD.	Remove from service and replace with a serviceable disc within 300 cycles or before June 30, 2002, whichever occurs earlier.
(2) Engine is fitted with a listed HPT disc that has 12,000 CSN to 15,000 CSN on effective date of this AD.	Remove from service and replace with a serviceable disc within 600 cycles or before June 30, 2002, whichever occurs earlier.
(3) Engine is fitted with a listed HPT disc that has 9,000 to 11,999 CSN on effective date of this AD.	Remove from service and replace with a serviceable disc within 900 cycles.
(4) Engine is fitted with a listed HPT disc that has more than 6,000 CSN as of June 30, 2003.	Before further flight, remove from service and replace with a serviceable disc.
(5) Engine is fitted with a listed HPT disc as of June 30, 2004	Before further flight, remove from service and replace with a serviceable disc.

(b) Remove from service any discs, listed by part number in Table 1 of this AD, from engines that are returned for a shop visit for any reason.

Definitions

(c) For the purpose of this AD, a serviceable disc is one whose P/N is not listed in Table 1 of this AD. Information on the reworking of affected discs into serviceable discs is specified in Rolls-Royce Dart Service Bulletin Da72–533 Revision 2, dated July 25, 2001.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must 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.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Civil Airworthiness Authority airworthiness directive AD 007–02–2001, dated April 12, 2001.

Effective Date of this AD

(f) This amendment becomes effective on October 15, 2001.

Issued in Burlington, Massachusetts, on September 20, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–24271 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–05FR]

Amendment of Class D Airspace; White Plains, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace at Westchester County Airport, White Plains, NY. This action is necessary to insure continuous altitude coverage for Instrument Flight Rules operations to the base of the overlying Class B airspace. The area would be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 UTC December 27, 2001.

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

SUPPLEMENTARY INFORMATION:

History

On April 18, 2001 a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by extending Class D airspace upward to, but not including 3000 feet Above Ground Level (AGL) at Westchester County Airport, White Plains, NY, was published in the Federal Register (66 FR 19907). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83. Class D airspace areas designations for airspace extending upward from the surface are published in Paragraph 5000 of FAA Order 7400.9J, dated August 31, 2001 and effective September 16, 2001. The Class D airspace designation listed in this document will be published in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class D airspace extending upward from the surface of the earth to 3000 feet AGL for aircraft conducting IFR operations at Westchester County Airport, White Plains, NY.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

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 5000 Class D airspace areas extending upward from the surface of the earth.

AEA NY D White Plains, NY [Revised]

Westchester County Airport, White Plains, NY
(Lat. 41°04′01″N., long. 73°42′27″W.)

That airspace extending upward from the surface to but not including 3,000 feet MSL within a 4.1 mile radius of the Westchester County Airport. This Class D airspace is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Jamaica, New York on September 13, 2001.

Richard J. Ducharme,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–23939 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–16FR]

Establishment of Class E Airspace; Coudersport, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Coudersport, PA.

Development of an Area Navigation (RNAV), Helicopter RNAV343 approach, for the Charles Cole Memorial Hospital Heliport, Coudersport, PA has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach to the Charles Cole Memorial Hospital Heliport.

EFFECTIVE DATE: 0901 UTC December 27, 2001.

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

SUPPLEMENTARY INFORMATION:

History

On May 29, 2001 a document proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) for an RNAV, Helicopter RNAV343 approach to the Charles Cole Memorial Hospital Heliport, Coudersport was published in the **Federal Register** (66 FR 29058–29059). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before June 28, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, 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 in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting Instrument Flight Rules (IFR) operations at the Charles Cole Memorial Hospital Heliport, Couderport, PA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routing matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; 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.

* * * * *

AEA PA E5 Coudersport [NEW]

Charles Cole Memorial Hospital Heliport, PA(lat. 41°46′17″N., long. 77°58′46″W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Charles Cole Memorial Hospital Heliport excluding that airspace within the Galeton, PA, Class E5 Airspace area.

Issued in Jamaica, New York on September 13, 2001.

Richard J. Ducharme,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–23937 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–17FR]

Establishment of Class E Airspace; Sharon, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Sharon, PA, Development of an Area Navigation (RNAV), Helicopter RNAV262 approach, for the Shenango-UMPC Horizon Hospital Heliport, Sharon, PA has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach to the Shenango-UMPC Horizon Hospital Heliport.

EFFECTIVE DATE: 0901 UTC December 27, 2001.

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

SUPPLEMENTARY INFORMATION:

History

On June 11, 2001 a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace extending upward from 700 feet above Ground Level (AGL) for an RNAV, Helicopter RNAV262 approach to the Shenango-UMPC Horizon Hospital Heliport, Sharon, PA was published in the **Federal Register** (66 FR 31196–31197). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before July 11, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, 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 in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting Instrument Flight Rules (IFR) operations at the Shenango-UMPC Horizon Hospital Heliport, Sharon, PA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001 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.

AEA PA E5, Sharon, PA [NEW]

Shenango-UMPC Horizon Hospital Heliport
(lat. 42° 12′19″N., long. 80°28′05″W.)
Point in Space Coordinates
(lat. 41° 13′29″N., long. 80°28′10″W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Shenango-UMPC Horizon Hospital Heliport.

Issued in Jamaica, New York on September 13, 2001.

Richard J. Ducharme,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–23938 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–20FR]

Establishment of Class E Airspace: Stafford, VA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Stafford, VA. Controlled airspace extending upward from the surface is needed to accommodate flights operating into Stafford Regional Airport under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC December 27, 2001.

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

SUPPLEMENTARY INFORMATION:

History

On July 24, 2001, a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace extending upward from 700 feet above the surface within a 6.2 mile radius of the Stafford Regional Airport, Stafford, VA was published in the **Federal Register** (66 FR 38385–38386). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before August 23, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, 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 in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations at the Stafford Regional Airport, Stafford, VA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, 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.

AEA VA E5 Stafford, VA [New]

Stafford Community Airport
(Lat. 38°23′53″N., long. 77°27′26″W.)

That airspace extending upward from 700 feet above the surface within a 6.2 mile radius of the Stafford Regional Airport,

Stafford, VA excluding Special Use Airspace (SUA).

Issued in Jamaica, New York on September 13, 2001.

Richard J. Ducharme,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–23941 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–19FR]

Amendment to Class E Airspace; Pittsburgh, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Pittsburgh, PA. This action is necessary to insure continuous coverage for Instrument Flight Rules (IFR) operations to the Pittsburgh International and Allegheny County Airports. The affected airspace will be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 UTC November 1, 2001.

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

SUPPLEMENTARY INFORMATION:

History

On July 24, 2001 a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by expanding Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Greater Pittsburgh International Airport, and Allegheny County Airport, PA was published in the Federal Register (66 FR 38386–38387). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001 and effective September 16, 2001. The Class E airspace designation listed in this document will be published in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet above the surface of the earth for aircraft conducting IFR operations at Greater Pittsburgh International Airport and Allegheny County Airport, Pittsburgh, PA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 149 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3.

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 5000 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

AEA PA E5, Pittsburgh, PA [REVISED]

Greater Pittsburgh International Airport
(lat. 40° 29′ 29″N., long. 80° 13′ 57″W.)
Allegheny County Airport
(lat. 40° 21′ 16″N., long. 79° 55′ 48″W.
STARG OM
(lat. 40° 29′ 15″N., long. 80° 22′ 14″W.)

That airspace extending upward from 700 feet above the surface within a 7.9 mile radius of Greater Pittsburgh International Airport and within 3.1 miles each side of the Greater Pittsburgh International Airport Runway 10R localizer course extending from the 7.9 mile radius to 5.7 miles west of the STARG OM and within a 8.5 mile radius of Allegheny County Airport.

Issued in Jamaica, New York on September 10, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–23942 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 736, 738, 740, 742, 745, 770, and 774

[Docket No. 010914228–1228–01]

RIN 0694–AC43

Revisions and Clarifications to the Export Administration Regulations—Chemical and Biological Weapons Controls: Australia Group; Chemical Weapons Convention

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to implement the understandings reached at the October 2000 plenary meeting of the Australia Group (AG). This final rule amends the Commerce Control List (CCL) and the corresponding export licensing provisions in the EAR to authorize exports, without a license, to State Parties to the Chemical Weapons Convention (CWC) of medical, analytical, diagnostic, and food testing kits containing small quantities of AG-controlled chemicals that are also identified on CWC Schedule 2 or 3, provided that they meet certain criteria. An export license for these kits is still required for anti-terrorism (AT) reasons or for other reasons specified in the EAR (e.g., embargoes). This rule also amends the CCL to implement a new AG policy on mixtures containing certain AG-controlled chemicals. Mixtures containing less than 30 percent by weight (previously 25 percent or less) of any single AG-controlled chemical generally may be exported without a license, unless the controlled chemical

is also: (1) A CWC Schedule 1 chemical or (2) a CWC Schedule 2 chemical destined for a State not Party to the CWC. However, exports of these mixtures to certain destinations continue to require a license for AT reasons or for other reasons specified in the EAR (e.g., embargoes).

In addition, this final rule amends the CCL to clarify controls on certain graphite-lined chemical manufacturing equipment, to revise controls on centrifugal separators, and to establish a new minimum size threshold for the control of heat exchangers and condensers. Furthermore, this rule amends the EAR by adding Cyprus and Turkey to Country Group A:3, which identifies the countries that participate in the Australia Group, thereby eliminating license requirements for exports and reexports of certain AG-controlled items to these two countries.

This rule also amends the CWC-related provisions in the EAR to clarify the export license requirements and policies for certain toxic chemicals and precursors listed in the Schedules of Chemicals contained within the Annex on Chemicals to the CWC. Specifically, this rule revises certain CWC-related provisions in the EAR to clarify BXA's export license requirements and policies in light of the CWC prohibition on retransfers of Schedule 1 chemicals to third countries and the CWC prohibition on exports of Schedule 2 chemicals to States not Party to the CWC that took effect on April 29, 2000. Finally, this rule updates the list of countries that are currently States Parties to the CWC by adding the following countries: Azerbaijan, Colombia, Dominica, Eritrea, Gabon, Jamaica, Kazakhstan, Kiribati, Liechtenstein, Malaysia, Mozambique, Nicaragua, San Marino, the United Arab Emirates, Yemen, the Federal Republic of Yugoslavia (Serbia and Montenegro), and Zambia.

DATES: This rule is effective September 28, 2001.

FOR FURTHER INFORMATION CONTACT: James Seevaratnam, Office of Chemical and Biological Controls and Treaty Compliance, Bureau of Export Administration, Telephone: (202) 501–7900.

SUPPLEMENTARY INFORMATION:

Background

A. Revisions to the EAR Based on the October 2000 Plenary Meeting of the Australia Group

The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to implement understandings reached at the annual plenary meeting of the Australia Group (AG) chemical and biological weapons nonproliferation control regime that was held in Paris on October 2–5, 2000. The Australia Group is a multilateral forum, consisting of 32 participating countries, that maintains export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program. The AG periodically reviews items on its control list to enhance the effectiveness of participating governments' national controls and to achieve greater harmonization among these controls.

At the October 2000 AG plenary meeting, participants reached an understanding that it was permissible to allow exports, without a license, to State Parties to the Chemical Weapons Convention (CWC) (destinations listed in Supplement No. 2 to part 745 of the EAR) of medical, analytical, diagnostic, and food testing kits containing small quantities of AG-controlled chemicals that also are identified as Schedule 2 or 3 chemicals under the CWC, provided that the kits: (1) Are pre-packaged materials of defined composition, (2) are specifically developed, packaged, and marketed for diagnostic, analytical, or public health purposes, and (3) contain no more than 300 grams of any single AG-controlled chemical.

This final rule implements the AG understanding on kits by amending the License Requirements section of Export Control Classification Number (ECCN) 1C350 on the Commerce Control List (CCL) to add a new Note 4 that excludes such test kits from the scope of this ECCN. These kits are now controlled under ECCN 1C995, where they continue to require a license to States not Party to the CWC for ''CW'' reasons and to certain destinations for ''AT'' reasons. This rule also revises section 742.18 of the EAR to include a description of the license requirements and licensing policies that apply to exports of test kits controlled by ECCN 1C995 to States not Party to the CWC.

Participants at the October 2000 AG plenary meeting also reached an understanding on a rule governing exports of mixtures that contain AG-controlled chemicals (identified in ECCN 1C350). Mixtures containing less than 30 percent by weight (previously 25 percent or less) of any single AG-controlled chemical generally may be exported without a license unless the controlled chemical is also: (1) A CWC Schedule 1 chemical or (2) a CWC Schedule 2 chemical destined for a State not Party to the CWC. Mixtures excluded from the scope of ECCN 1C350, as described in the License Requirements Note that applies to mixtures containing chemicals controlled by that ECCN, continue to be controlled to certain destinations under ECCN 1C995 for AT reasons. This final rule revises Note 2 in the License Requirements section of ECCN 1C350 to reflect the new AG understanding on mixtures.

A license continues to be required for exports, to States not Party to the CWC, of mixtures that contain more than 10 percent of any single AG-controlled CWC Schedule 2 chemical. A license is also still required to export mixtures containing AG-controlled CWC Schedule 1 chemicals, regardless of the concentration, unless the mixture contains less than 0.5 percent aggregate quantities of Schedule 1 chemicals as unavoidable by-products or impurities (i.e., the Schedule 1 chemicals have not been intentionally produced or added).

The October 2000 AG plenary meeting also resulted in understandings to establish a new minimum size threshold for the control of heat exchangers and condensers, to clarify controls on certain graphite-lined equipment, and to revise controls on centrifugal separators. This final rule implements these changes by revising the List of Items Controlled in ECCNs 2B350 and 2B352.

Specifically, this rule revises ECCN 2B350.d to establish a minimum size control threshold for the heat transfer surface area of heat exchangers and condensers. This ECCN now controls heat exchangers or condensers with a heat transfer surface area of less than 20 m^2, but greater than 0.15 m^2, where all surfaces that come in direct contact with the chemical(s) being processed are made from certain listed materials. This rule also revises ECCN 2B350 to clarify that certain heat exchangers or condensers (2B350.d.4), distillation or absorption columns (2B350.e.4), multi-walled piping (2B350.h.4), and pumps (2B350.i.6) are controlled under this entry if all surfaces that come in direct contact with the chemical being processed are made of carbon-graphite. A technical note is added to ECCN 2B350 to define ''carbon-graphite'' as a composition consisting primarily of graphite and amorphous carbon, in which the graphite is 8 percent or more by weight of the composition.

This final rule revises the controls on centrifugal separators controlled under ECCN 2B352 by changing the control criterion that applies to sealing joints located within the steam containment area from ''double or multiple sealing joints'' to ''one or more sealing joints''.

Finally, this rule amends the EAR to add Cyprus and Turkey as the two

newest participating countries in the Australia Group (which now includes a total of 32 countries). Supplement No. 1 to part 740 (Country Groups) is revised to add Cyprus and Turkey to Country Group A:3 (Australia Group) and Supplement No. 1 to part 738 (Commerce Country Chart) is revised to remove the licensing requirements for both countries under CB Column 2 in conformance with the licensing policy that applies to other AG participating countries. This rule also amends section 770.2 paragraph (k), ''Interpretation 11: Precursor chemicals,'' by removing an unnecessary listing of the countries participating in the Australia Group.

B. Revisions and Clarifications to the CWC-Related Provisions in the EAR

The Bureau of Export Administration (BXA) also is amending provisions in the Export Administration Regulations (EAR) related to the Chemical Weapons Convention (CWC) to clarify BXA's export license requirements and policies for these chemicals and precursors in light of the CWC prohibition on retransfers of Schedule 1 chemicals to third countries and the CWC prohibition on exports of Schedule 2 chemicals and precursors to States not Party to the CWC that took effect on April 29, 2000.

Specifically, this rule revises section 742.18(b)(1)(i) in the EAR, which identifies certain factors that BXA will consider when reviewing license applications to export Schedule 1 chemicals to States Parties to the CWC (see Supplement No. 2 to part 745 of the EAR). Previously, paragraph (b)(1)(i) listed three conditions that had to be met before BXA would approve an application to export Schedule 1 chemicals to States Parties to the CWC. Now, the licensing policy in paragraph (b)(1)(i) states that BXA generally will deny license applications to export Schedule 1 chemicals to States Parties to the CWC, unless all of the conditions are met. A new licensing condition, which restates the CWC prohibition against retransfers of Schedule 1 chemicals to third countries, is added to the three conditions originally listed in paragraph (b)(1)(i). BXA generally will deny applications to export CWC Schedule 1 chemicals that were imported into the United States on or after April 29, 1997, unless the Schedule 1 chemicals are to be exported back to the same State Party from which they were previously imported.

This rule also amends section 742.18 of the EAR by removing the license requirements and policies that applied to exports of CWC Schedule 2 chemicals and precursors to States not Party to the CWC prior to the April 29, 2000, effective date of the CWC prohibition on such exports. Since April 29, 2000, all exports of CWC Schedule 2 chemicals to States not Party to the CWC have required a license and have been subject to a general policy of denial.

In addition, this rule revises section 742.18 to clarify the licensing requirements and policies that apply to exports of Schedule 3 chemicals and precursors controlled for CW reasons by Export Control Classification Number (ECCN) 1C350 or 1C355 to States not Party to the CWC. This rule states that an End-Use Certificate is required to export any quantity of a CWC Schedule 3 chemical to States not Party to the CWC, regardless of whether or not a license is required for reasons other than CW reasons (please note that BXA does not require submission of an End-Use Certificate for reexports; however, reexports of Schedule 3 chemicals may be subject to an End-Use Certificate requirement by governments of other countries). The CWC-related licensing requirements in section 742.18 are also revised to inform exporters that exports of chemicals controlled for CW reasons may require a license for other reasons set forth elsewhere in the EAR. Section 742.18 now cross-references the Australia Group licensing requirements and policies in section 742.2 of the EAR, the end-use and end-user restrictions in part 744 of the EAR, and the restrictions in part 746 of the EAR that apply to embargoed destinations.

This rule revises Supplement No. 2 to part 745 (titled ''States Parties to the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction'') by adding the names of countries that have recently become CWC States Parties (i.e., Azerbaijan, Colombia, Dominica, Eritrea, Gabon, Jamaica, Kazakhstan, Kiribati, Liechtenstein, Malaysia, Mozambique, Nicaragua, San Marino, the United Arab Emirates, Yemen, the Federal Republic of Yugoslavia (Serbia and Montenegro), and Zambia).

This rule amends Supplement No. 1 to part 774 (the Commerce Control List) (CCL) by revising the ''License Requirements'' sections of ECCNs 1C350 and 1C355 to clarify the licensing requirements and policies for chemicals controlled by these ECCNs for CW reasons. The revisions to these ECCNs conform with the clarifications that this rule makes in the CWC licensing requirements and policies described in section 742.18 of the EAR. The rule clarifies and restructures, but does not change, BXA's policy concerning sample shipments of chemicals and precursors controlled by ECCN 1C350. For example, this rule adds CWC Schedule 2 chemicals to the category of ''chemicals not eligible'' for sample shipments, as described in the License Requirements Notes for ECCN 1C350. Language is added to the eligibility requirements for sample shipments in ECCN 1C350 to emphasize that the End-Use Certificate requirement described in section 745.2 of the EAR applies to exports of ''any quantity'' of Schedule 3 chemicals to CWC non-States Parties.

This rule also revises Note 1(b) in the License Requirements section of ECCN 1C355 to implement a decision of the Organization for the Prevention of Chemical Weapons (OPCW) of the CWC concerning mixtures that contain one or more CWC Schedule 3 chemicals. The OPCW eliminated end-use certificate requirements for products containing ''30 percent or less'' by weight of any single Schedule 3 chemical. However, the AG rule for mixtures that contain Schedule 3 chemicals controlled by ECCN 1C350 only exempts mixtures that contain ''less than 30 percent'' by weight of any single Schedule 3 chemical. Therefore, this rule implements a mixtures rule of ''less than 30 percent'' in ECCN 1C355 to be consistent with the AG mixtures rule in ECCN 1C350.

In addition, this rule revises the requirements for mixtures containing one or more CWC Schedule 2 chemicals controlled by ECCN 1C355 to reflect the more stringent CWC controls that apply to the toxic chemical PFIB. Mixtures containing one or more CWC Schedule 2 chemicals controlled by ECCN 1C355 do not require a license for CW reasons if they contain 10 percent or less of any single CWC Schedule 2 chemical, except for mixtures containing PFIB, which require a license when PFIB constitutes more than 1 percent of the weight of the mixture.

Finally, this rule amends section 736.2(b)(7)(i), which contains Prohibition Seven, ''Support of Proliferation Activities (U.S. Person Proliferation Activity),'' by removing the reference to the End-Use Certificate requirement that previously applied to exports of CWC Schedule 2 chemicals to States not Party to the CWC. This change is based on the CWC prohibition on exports of Schedule 2 chemicals and precursors to States not Party to the CWC that took effect on April 29, 2000. In addition, this rule amends section 736.2(b)(7)(i) to correctly reference the advance notification and annual report requirements contained in section 745.1 that apply to Schedule 1 chemicals and precursors listed in Supplement No. 1 to part 745 of the EAR.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. This rule contains collections of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under Control Numbers 0694–0088 and 0694–0117.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 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 not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Regulatory Policy Division, Bureau of Export Administration, U.S. Department of Commerce, Room 2705, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230.

List of Subjects

15 CFR Part 738

Administrative practice and procedure, Exports, Foreign trade.

15 CFR Part 740

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Parts 736, 742, and 770

Exports, Foreign trade.

15 CFR Part 745

Administrative practice and procedure, Chemicals, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, Parts 736, 738, 740, 742, 745, 770, and 774 of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

1. The authority citation for 15 CFR Part 736 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp. p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp. p. 228; E.O. 13222, 66 FR 44025, August 22, 2001; Notice of November 9, 2000, 65 FR 68063, 3 CFR, 2000 Comp. p. 408.

2. The authority citation for 15 CFR Part 738 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001.

3. The authority citation for 15 CFR Part 740 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001.

4. The authority citation for 15 CFR Part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001; Notice of November 9, 2000, 65 FR 68063, 3 CFR, 2000 Comp. p. 408.

5. The authority citation for 15 CFR Part 745 is revised to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of November 9, 2000, 65 FR 68063, 3 CFR, 2000 Comp. p. 408.

6. The authority citation for 15 CFR Part 770 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, August 22, 2001.

7. The authority citation for 15 CFR Part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287(c); 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466(c); 50 U.S.C. app. 5; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001.

PART 736—[AMENDED]

8. Section 736.2 is amended by revising paragraphs (b)(7)(i)(B) and (b)(7)(i)(C) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

* * * * *

(b) * * *

(7) * * *

(i) * * *

(B) If you are a U.S. person as that term is defined in § 744.6(c) of the EAR, you may not export a Schedule 1 chemical listed in Supplement No. 1 to Part 745 without first complying with the provisions of §§ 742.18 and 745.1 of the EAR.

(C) If you are a U.S. person as that term is defined in § 744.6(c) of the EAR, you may not export a Schedule 3 chemical listed in Supplement No. 1 to Part 745 to a destination not listed in Supplement No. 2 to Part 745 without complying with the End-Use Certificate requirements in § 745.2 of the EAR that apply to Schedule 3 chemicals controlled for CW reasons in ECCN 1C350 or ECCN 1C355.

* * * * *

PART 738—[AMENDED]

9. Supplement No. 1 to Part 738 is amended by revising the entries for ''Cyprus'' and ''Turkey'' to read as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

* * * * *

COMMERCE COUNTRY CHART REASON FOR CONTROL

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Firearms convention	Crime control			Anti-terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
* *	*			*			*		*			*				
Cyprus	X			X		X	X	X	X	X	.....	X	.....	X		
* *	*			*			*		*			*				
Turkey	X			X		X		X	X							
* *	*			*			*		*			*				

PART 740—[AMENDED]

10. In Supplement No. 1 to Part 740, Country Groups, Country Group A is amended by adding, in alphabetical order, a new entry for ''Cyprus'' and by revising the entry for ''Turkey'' to read as follows:

Supplement No. 1 to Part 740—Country Groups

COUNTRY GROUP A

Country	[A:1]	[A:2] Missile technology control regime	[A:3] Australia group	[A:4] Nuclear suppliers group
* * *	*	*	*	*
Cyprus			X	
* * *	*	*	*	*
Turkey	X		X	
* * *	*	*	*	*

PART 742—[AMENDED]

11. Section 742.2 is amended by adding a new paragraph (a)(2)(i)(C) to read as follows:

§ 742.2 Proliferation of chemical and biological weapons.

(a) * * *

(2) * * *

(i) * * *

(C) This licensing requirement does *not* apply to exports to CWC States Parties (destinations listed in Supplement No. 2 to Part 745 of the EAR) of medical, analytical, diagnostic, and food testing kits containing small quantities of chemicals identified in ECCN 1C350 that are also identified as Schedule 2 or 3 chemicals under the CWC, *provided that* the kits are pre-packaged materials of defined composition that are specifically developed, packaged, and marketed for diagnostic, analytical, or public health purposes and contain no more than 300 grams of any controlled chemical. These kits are controlled by ECCN 1C995 for CW and AT reasons.

* * * * *

12. Section 742.18 is revised to read as follows:

§ 742.18 Chemical Weapons Convention (CWC or Convention).

States that are parties to the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention (CWC or Convention), undertake never to develop, produce, acquire, stockpile, transfer, or use chemical weapons. As a State Party to the Convention, the United States is subjecting certain toxic chemicals and their precursors listed in Schedules within the Convention to trade restrictions. Trade restrictions include: a prohibition on the export of Schedule 1 chemicals to States not Party to the CWC; a prohibition on the reexport of Schedule 1 chemicals to all destinations (both States Parties to the CWC and States not Party to the CWC); license requirements for the export of Schedule 1 chemicals to all States Parties; a prohibition on the export of Schedule 2 chemicals to States not Party to the CWC; and an End-Use Certificate requirement for exports of Schedule 3 chemicals to States not Party to the CWC. Exports of CWC chemicals that do not require a license for CW reasons (e.g., exports and reexports of Schedule 2 and Schedule 3 chemicals to States Parties to the CWC) may require a license for other reasons set forth in the EAR. (See, in particular, the license requirements in § 742.2 of the EAR that apply to exports and reexports of chemicals and precursors controlled by ECCN 1C350, for CB reasons. Also note the end-use and end-user restrictions in part 744 of the EAR and the restrictions that apply to embargoed countries in part 746 of the EAR.)

(a) *License requirements.* (1) *Schedule 1 chemicals under ECCN 1C350 or ECCN 1C351.* A license is required for CW reasons to export or reexport Schedule 1 chemicals controlled under ECCN 1C350.a.20, a.24, or a.31 or ECCN 1C351.d.5 or d.6 to all destinations *including Canada.* CW applies to

1C351.d.5 for ricin in the form of Ricinus Communis $Agglutinin_{II}$ (RCA_{II}), which is also known as ricin D or Ricinus Communis $Lectin_{III}$ (RCL_{III}), and Ricinus Communis $Lectin_{IV}$ (RCL_{IV}), which is also known as ricin E. CW applies to 1C351.d.6 for saxitoxin identified by C.A.S. #35523–89–8. (Note that the advance notification procedures and annual reporting requirements described in § 745.1 of the EAR also apply to exports of Schedule 1 chemicals.)

(2) *Schedule 2 and 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.* (i) *States Parties to the CWC.* Neither a license nor an End-Use Certificate is required for CW reasons to export or reexport Schedule 2 and 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or 1C995.b to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR).

(ii) *States not Party to the CWC.* (A) *Schedule 2 chemicals.* A license is required for CW reasons to export or reexport Schedule 2 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR).

(B) *Schedule 3 chemicals.* (*1*) *Exports.* A license is required for CW reasons to export Schedule 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to Part 745 of the EAR), *unless* the exporter obtains from the consignee an End-Use Certificate (issued by the government of the importing country) prior to exporting the Schedule 3 chemicals and submits it to BXA in accordance with the procedures described in § 745.2 of the EAR. Note, however, that obtaining an End-Use Certificate does not relieve the exporter from the responsibility of complying with other license requirements set forth elsewhere in the EAR.

(*2*) *Reexports.* Neither a license nor an End-Use Certificate is required for CW reasons to reexport Schedule 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b from States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) to States not Party to the CWC. However, a license may be required for other reasons set forth elsewhere in the EAR. In addition, please note that reexports of Schedule 3 chemicals may be subject to an End-Use Certificate requirement by governments of other countries when the chemicals are destined for States not Party to the CWC.

(C) *Technology controlled under ECCN 1E355.* A license is required for CW reasons to export or reexport technology controlled under ECCN 1E355 to all States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR), except for Israel and Taiwan.

(b) *Licensing policy.* (1) *Schedule 1 chemicals.*—(i) *Exports to States Parties to the CWC.* Applications to export Schedule 1 chemicals controlled under ECCN 1C350 or ECCN 1C351 to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, *unless* all of the following conditions are met:

(A) The chemicals are destined only for purposes not prohibited under the CWC (i.e., research, medical, pharmaceutical, or protective purposes);

(B) The types and quantities of chemicals are strictly limited to those that can be justified for those purposes;

(C) The Schedule 1 chemicals were not previously imported into the United States (this does not apply to Schedule 1 chemicals imported into the United States prior to April 29, 1997, or imported into the United States directly from the same State Party to which they now are to be returned, i.e., exported); *and*

(D) The aggregate amount of Schedule 1 chemicals in the country of destination at any given time is equal to or less than one metric ton *and* receipt of the proposed export will *not* cause the country of destination to acquire or to have acquired one metric ton or more of Schedule 1 chemicals in any calendar year.

(ii) *Exports to States not Party to the CWC.* Applications to export Schedule 1 chemicals controlled under ECCN 1C350 or ECCN 1C351 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(iii) *Reexports.* Applications to reexport Schedule 1 chemicals controlled under ECCN 1C350 or ECCN 1C351 generally will be denied to all destinations (including both States Parties to the CWC and States not Party to the CWC).

(2) *Schedule 2 chemicals.* Applications to export or reexport Schedule 2 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(3) *Schedule 3 chemicals.* Applications to export Schedule 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745) generally will be denied.

(4) *Technology controlled under ECCN 1E355.* Exports and reexports of technology controlled under ECCN 1E355 will be reviewed on a case-by-case basis.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

PART 745—[AMENDED]

13. Section 745.2 is amended by revising the phrase ''Schedule 2 or Schedule 3'' to read ''Schedule 3'' wherever it appears in the Note immediately following the section heading and in the first sentence of paragraph (a)(1).

14. Supplement No. 2 to Part 745 is amended by revising the undesignated subheading entitled ''List of States Parties as of September 13, 1999'' to read ''List of States Parties as of August 1, 2001'' and by adding, in alphabetical order, the following countries: Azerbaijan, Colombia, Dominica, Eritrea, Gabon, Jamaica, Kazakhstan, Kiribati, Liechtenstein, Malaysia, Mozambique, Nicaragua, San Marino, the United Arab Emirates, Yemen, Yugoslavia (Federal Republic of), and Zambia.

PART 770—[AMENDED]

15. Section 770.2 is amended by revising the introductory text of paragraph (k) to read as follows:

§ 770.2 Item interpretations.

* * * * *

(k) *Interpretation 11: Precursor chemicals.* The following chemicals are controlled by ECCN 1C350. The appropriate Chemical Abstract Service Registry (C.A.S.) number and synonyms (i.e., alternative names) are included to help you determine whether or not your chemicals are controlled by this entry.

* * * * *

PART 774—[AMENDED]

16. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms,'' and ''Toxins,'' is

amended by revising the heading and the License Requirements section for ECCN 1C350, as follows:

1C350 Chemicals That May Be Used as Precursors for Toxic Chemical Agents

License Requirements

Reason for Control: CB, CW, AT

Control(s)	Country chart
CB applies to entire entry ..	CB Column 2.

CW applies to 1C350.a.2, a.3, a.5, a.6, a.7, a.8, a.10, a.11, a.12, a.13, a.15, a.16, a.17, a.20, a.21, a.22, a.23, a.24, a.28, a.29, a.30, a.31, a.32, a.33, a.35, a.37, a.41, a.47, a.48, a.49, a.50, a.51, a.53, or a.54. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. For Schedule 1 chemicals (1C350.a.20, a.24 and a.31), a license is required for exports to all destinations, including Canada. For Schedule 2 chemicals (1C350.a.2, a.3, a.5, a.6, a.7, a.10, a.11, a.12, a.13, a.15, a.16, a.21, a.22, a.23, a.28, a.29, a.30, a.37, a.41, and a.49), a license is required for exports to countries not listed in Supplement No. 2 to part 745 of the EAR. For Schedule 3 chemicals (1C350.a.8, a.17, a.32, a.33, a.35, a.47, a.48, a.50, a.51, a.53, and a.54), a license is required for exports to countries not listed in Supplement No. 2 to part 745 of the EAR, unless an End-Use Certificate issued by the government of the importing country has been obtained by the exporter prior to export. (See § 742.18 of the EAR for license requirements and policies for chemicals and precursors controlled for CW reasons. See § 745.2 of the EAR for End-Use Certificate requirements that apply to exports of Schedule 3 chemicals to countries not listed in Supplement No. 2 to part 745 of the EAR.)

AT applies to entire entry ..	AT Column 1.

License Requirement Notes:

1. *SAMPLE SHIPMENTS:* Subject to the following requirements and restrictions, a license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of each chemical to any one consignee during a calendar year. A consignee that receives a sample shipment under this exclusion may not resell, transfer, or reexport the sample shipment, but may use the sample shipment for any other legal purpose unrelated to chemical weapons.

a. *Chemicals Not Eligible:*

A. *CWC Schedule 1 chemicals (all destinations).* The following CWC Schedule 1 chemicals are not eligible for sample shipments to any destination without a license: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856–11–8), Ethylphosphonyl difluoride (C.A.S. #753–98–0), and Methylphosphonyl difluoride (C.A.S. #676–99–3).

B. *CWC Schedule 2 chemicals (States not Party to the CWC).* No CWC Schedule 2 chemical controlled by this ECCN is eligible for sample shipment to *States not Party to the CWC* (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) without a license.

b. *Countries Not Eligible:* The following countries are *not* eligible to receive sample shipments of any chemicals controlled by this ECCN without a license: Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria.

c. *Sample shipments that require an End-Use Certificate for CW reasons:* No CWC Schedule 3 chemical controlled by this ECCN is eligible for sample shipment to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) without a license, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter prior to export (see § 745.2 of the EAR for End-Use Certificate requirements).

d. *Sample shipments that require a license for reasons set forth elsewhere in the EAR:* Sample shipments, as described in this Note 1, may require a license for reasons set forth elsewhere in the EAR. See, in particular, the end-use/end-user restrictions in part 744 of the EAR, and the restrictions that apply to embargoed countries in part 746 of the EAR.

e. *Quarterly report requirement.* The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled ''Report of Sample Shipments of Chemical Precursors'' at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee's name and address, and the date exported. The report must be sent to the U.S. Department of Commerce, Bureau of Export Administration, P.O. Box 273, Washington, DC 20044, Attn: ''Report of Sample Shipments of Chemical Precursors''.

2. *MIXTURES:* Mixtures that contain precursor and intermediate chemicals identified in ECCN 1C350, in concentrations specified in paragraphs (a) through (c) of this Note 2, are controlled by this ECCN and are subject to the following licensing requirements (mixtures that contain less than the concentrations of precursor and intermediate chemicals specified in this Note 2 are controlled by ECCN 1C995):

a. A license is required for shipments to all destinations, including Canada, for mixtures containing any amount of the following Schedule 1 chemicals, unless the mixture contains less than 0.5% aggregate quantities (by weight) of these chemicals as unavoidable by-products or impurities (i.e., the Schedule 1 chemicals are not intentionally produced or added): 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S.#57856–11–8), Ethylphosphonyl difluoride (C.A.S.#753–98–0) and Methylphosphonyl difluoride (C.A.S.#676–99–3).

b. A license is required when at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture, for shipments to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) that are not in Country Group A:3 (see Supplement No. 1 to part 740 of the EAR), or more than 10 percent of the weight of the mixture, for shipments to all other destinations: Arsenic trichloride (C.A.S.#7784–34–1), Benzilic acid (C.A.S.#76–93–7), Diethyl ethylphosphonate (C.A.S.#78–38–6), Diethyl methylphosphonite (C.A.S.#15715–41–0), Diethyl-N,N-dimethylphosphoroamidate (C.A.S.#2404–03–7), N,N-Diisopropyl-beta-aminoethane thiol (C.A.S.#5842–07–9), N,N-Diisopropyl-2-aminoethyl chloride hydrochloride (C.A.S.#4261–68–1), N,N-Diisopropyl-beta-aminoethanol (C.A.S.#96–80–0), N,N-Diisopropyl-beta-aminoethyl chloride (C.A.S.#96–79–7), Dimethyl ethylphosphonate (C.A.S.#6163–75–3), Dimethyl methylphosphonate (C.A.S.#756–79–6), Ethylphosphonous dichloride [Ethylphosphinyl dichloride] (C.A.S.#1498–40–4), Ethylphosphonus difluoride [Ethylphosphinyl difluoride] (C.A.S.#430–78–4), Ethylphosphonyl dichloride (C.A.S.#1066–50–8), Methylphosphonous dichloride [Methylphosphinyl dichloride] (C.A.S.#676–83–5), Methylphosphonous difluoride [Methylphosphinyl difluoride] (C.A.S.#753–59–3), Methylphosphonyl dichloride (C.A.S.#676–97–1), Pinacolyl alcohol (C.A.S.#464–07–3), 3–Quinuclidinol (C.A.S.#1619–34–7), and Thiodiglycol (C.A.S.#111–48–8) (Related ECCN: 1C995);

c. A license is required for shipments to destinations that are not in Country Group A:3 (Supplement No. 1 to part 740 of the EAR) when at least one of all other chemicals in the List of Items Controlled under ECCN 1C350 constitutes 30 percent or more of the weight of the mixture (related ECCN: 1C995); *and*

d. A license is not required under this entry for mixtures when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are classified as EAR99.

Note to Mixtures: Calculation of concentrations of AG-controlled chemicals:

a. Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;

b. Percent Weight Calculation. When calculating the percentage, by weight, of components in a chemical mixture, include all components of the mixture, including those that act as solvents;

c. Example.

31% chemical listed in paragraph c. of Note 2. (destined to a State not Party to the CWC)
39% chemical not listed in Note 2
30% Solvent
100% Mixture
31/100 = 31% chemical listed in paragraph c. of Note 2.

In this example, a license and an End-Use Certificate are required because a chemical listed in paragraph c. of Note 2 constitutes 30 percent or more of the weight of the mixture and the destination is a State not Party to the CWC.

3. *COMPOUNDS:* Compounds created with any chemicals identified in this ECCN 1C350 may be shipped NLR (No License Required), without obtaining an End-Use Certificate, unless those compounds are also identified in this entry or require a license for reasons set forth elsewhere in the EAR.

4. *TESTING KITS:* Certain medical, analytical, diagnostic, and food testing kits containing small quantities of chemicals identified in this ECCN 1C350 as CWC Schedule 2 or 3 chemicals are excluded from the scope of this ECCN and are controlled under ECCN 1C995. (Note that replacement reagents for such kits are controlled by ECCN 1C350 if the reagents contain one or more of the precursor or intermediate chemicals identified in this ECCN in concentrations equal to or greater than those specified for mixtures in License Requirements Note 2 for this ECCN.)

Technical Notes: 1. For purposes of this entry, a ''mixture'' is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (Item 25 in List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

License Exceptions

* * * * *

17. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms,'' and ''Toxins,'' is amended by revising the heading and the License Requirements section for ECCN 1C355, as follows:

1C355 Chemical Weapons Convention (CWC) Schedule 2 and 3 Chemicals and Families of Chemicals not Controlled by ECCN 1C350 or by the Department of State Under the ITAR

License Requirements

Reason for Control: CW

Control(s)

CW applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required to export CWC Schedule 2 chemicals (1C355.a) to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745). A license is required to export CWC Schedule 3 chemicals (1C355.b) to States not Party to the CWC, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter, prior to export. (See § 742.18 of the EAR for license requirements and policies for chemicals and precursors controlled for CW reasons.)

License Requirements Notes:

1. *MIXTURES:* Mixtures that contain precursor and intermediate chemicals controlled by this entry, in the concentrations specified in paragraphs (a) through (c) of this Note 1, are subject to the following requirements.

a. Mixtures are controlled under this entry when at least one of the chemicals controlled under 1C355.a constitutes more than 10 percent of the weight of the mixture, *except for* mixtures containing PFIB, which are controlled under this entry when PFIB constitutes more than 1 percent of the weight of the mixture.

b. Mixtures are controlled under this entry when at least one of the chemicals controlled under 1C355.b constitutes 30 percent or more of the weight of the mixture.

c. Mixtures containing chemicals identified in this entry are not controlled by ECCN 1C355 when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use or packaged for individual use. Such consumer goods are classified as EAR99.

Note to Mixtures: Calculation of concentrations of CW-controlled chemicals:

a. Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;

b. Percent Weight Calculation. When calculating the percentage, by weight, of components in a chemical mixture, include all components of the mixture, including those that act as solvents;

c. Example.

30% chemical listed in 1C355.b.
20% chemical not listed in 1C355.b
50% Solvent
100% Mixture
30/100 = 30% chemical listed in 1C355.b.

In this example, the mixture is controlled under this entry, because a chemical listed in 1C355.b constitutes 30 percent or more of the weight of the mixture.

2. *COMPOUNDS:* Compounds created with any chemicals identified in this ECCN 1C355 may be shipped NLR (No License Required), without obtaining an End-Use Certificate, unless those compounds are also identified in this entry or require a license for reasons set forth elsewhere in the EAR.

Technical Notes: For purposes of this entry, a ''mixture'' is defined as a solid, liquid, or gaseous product made up of two or more components that do not react together under normal storage conditions.

License Exceptions

* * * * *

18. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms,'' and ''Toxins,'' is amended by revising ECCN 1C995, as follows:

1C995 Mixtures and Medical, Analytical, Diagnostic, and Food Testing Kits Not Controlled by ECCN 1C350, as Follows (See List of Items Controlled)

License Requirements

Reason for Control: CW, AT

Control(s) *Country Chart*

CW applies to 1C995.b. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required to

export CWC Schedule 2 chemicals to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745). A license is required to export CWC Schedule 3 chemicals to States not Party to the CWC, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter prior to export. (See § 742.18 of the EAR for license requirements and policies for chemicals and precursors controlled for CW reasons.)

AT applies to 1C995.a. The Commerce Country Chart is not designed to determine licensing requirements for 1C995.a. A license is required for items controlled by 1C995.a to Cuba, Iran, Libya, and North Korea for anti-terrorism reasons. (See part 746 of the EAR for additional information on Cuba, Iran, and Libya. See § 742.19 of the EAR for additional information on North Korea.)

AT applies to 1C995.b AT Column 1

License Requirement Notes:

1. 1C995.b does not control mixtures excluded from the scope of ECCN 1C350 by License Requirements Note 2 of that ECCN. 1C995.a controls such mixtures, unless they are consumer goods as described in License Requirements Note 2 of this ECCN.

2. This ECCN does not control mixtures when the controlled chemicals are normal ingredients in consumer goods packaged for retail sale for personal use. Such consumer goods are classified as EAR99.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: For the purpose of this entry, ''medical, analytical, diagnostic, and food testing kits'' are pre-packaged materials of defined composition that are specifically developed, packaged and marketed for medical, analytical, diagnostic, or public health purposes. Replacement reagents for medical, analytical, diagnostic, and food testing kits are controlled by ECCN 1C350 if the reagents contain one or more of the precursor and intermediate chemicals identified in that ECCN in concentrations equal to or greater than those specified for mixtures in License Requirements Note 2 for that ECCN.
Items:
a. Mixtures containing concentrations of precursor or intermediate chemicals controlled by ECCN 1C350 that are below the concentration levels for mixtures indicated in the License Requirements Notes to that ECCN;
b. ''Medical, analytical, diagnostic, and food testing kits'' (as defined in the Related Definitions for this ECCN) that contain intermediate and precursor chemicals controlled by ECCN 1C350 and identified as Schedule 2 or 3 chemicals under the CWC in an amount *not* exceeding 300 grams per chemical. (ECCN 1C350 controls any such kits in which the amount of any single controlled chemical exceeds 300 grams by weight.)

19. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2—Materials Processing, is amended by revising the List of Items Controlled section in ECCNs 2B350 and 2B352, as follows:

2B350 Chemical manufacturing facilities and equipment, as follows (see List of Items Controlled)

* * * * *

List of Items Controlled

Unit: Equipment in number.
Related Controls: The controls in this entry do not apply to equipment that is: a.) specially designed for use in civil applications (e.g., food processing, pulp and paper processing, or water purification); AND b.) inappropriate, by the nature of its design, for use in storing, processing, producing or conducting and controlling the flow of chemical weapons precursors controlled by 1C350.
Related Definitions: For purposes of this entry the term ''chemical warfare agents'' are those agents subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121)
Items:
a. Reaction vessels or reactors, with or without agitators, with total internal (geometric) volume greater than 0.1 m^3 (100 liters) and less than 20 m^3 (20,000 liters), where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
a.1. Alloys with more than 25% nickel and 20% chromium by weight;
a.2. Fluoropolymers;
a.3. Glass (including vitrified or enamelled coating or glass lining);
a.4. Nickel or alloys with more than 40% nickel by weight;
a.5. Tantalum or tantalum alloys;
a.6. Titanium or titanium alloys; or
a.7. Zirconium or zirconium alloys;
b. Agitators for use in reaction vessels or reactors where all surfaces of the agitator that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
b.1. Alloys with more than 25% nickel and 20% chromium by weight;
b.2. Fluoropolymers;
b.3. Glass (including vitrified or enamelled coatings or glass lining);
b.4. Nickel or alloys with more than 40% nickel by weight;
b.5. Tantalum or tantalum alloys;
b.6. Titanium or titanium alloys; *or*
b.7. Zirconium or zirconium alloys;
c. Storage tanks, containers or receivers with a total internal (geometric) volume greater than 0.1 m^3 (100 liters) where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
c.1. Alloys with more than 25% nickel and 20% chromium by weight;
c.2. Fluoropolymers;
c.3. Glass (including vitrified or enamelled coatings or glass lining);
c.4. Nickel or alloys with more than 40% nickel by weight;
c.5. Tantalum or tantalum alloys;
c.6. Titanium or titanium alloys; *or*
c.7. Zirconium or zirconium alloys;
d. Heat exchangers or condensers with a heat transfer surface area of less than 20 m^2 but greater than 0.15 m^2, where all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:
d.1. Alloys with more than 25% nickel and 20% chromium by weight;
d.2. Fluoropolymers;
d.3. Glass (including vitrified or enamelled coatings or glass lining);
d.4. Graphite or carbon-graphite;
d.5. Nickel or alloys with more than 40% nickel by weight;
d.6. Silicon carbide;
d.7. Tantalum or tantalum alloys;
d.8. Titanium or titanium alloys;
d.9. Titanium carbide; *or*
d.10. Zirconium or zirconium alloys;
e. Distillation or absorption columns of internal diameter greater than 0.1 m, where all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:
e.1. Alloys with more than 25% nickel and 20% chromium by weight;
e.2. Fluoropolymers;
e.3. Glass (including vitrified or enamelled coatings or glass lining);
e.4. Graphite or carbon-graphite;
e.5. Nickel or alloys with more than 40% nickel by weight;

e.6. Tantalum or tantalum alloys;
e.7. Titanium or titanium alloys; *or*
e.8. Zirconium or zirconium alloys;
f. Remotely operated filling equipment in which all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:
f.1. Alloys with more than 25% nickels and 20% chromium by weight; *or*
f.2. Nickel or alloys with more than 40% nickel by weight;
g. Multiple seal valves incorporating a leak detection port, bellows-seal valves, non-return (check) valves or diaphragm valves, in which all surfaces that come in to direct contact with the chemical(s) being processed or contained are made from any of the following materials:
g.1. Alloys with more than 25% nickel and 20% chromium by weight;
g.2. Fluoropolymers;
g.3. Glass (including vitrified or enamelled coatings or glass lining);
g.4. Nickel or alloys with more than 40% nickel by weight;
g.5. Tantalum or tantalum alloys;
g.6. Titanium or titanium alloys; *or*
g.7. Zirconium or zirconium alloys;
h. Multi-walled piping incorporating a leak detection port, in which all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
h.1. Alloys with more than 25% nickel and 20% chromium by weight;
h.2. Fluoropolymers;
h.3. Glass (including vitrified or enamelled coatings or glass lining);
h.4. Graphite or carbon-graphite;
h.5. Nickel or alloys with more than 40% nickel by weight;
h.6. Tantalum or tantalum alloys;
h.7. Titanium or titanium alloys; *or*
h.8. Zirconium or zirconium alloys;
i. Multiple-seal, canned drive, magnetic drive, bellows or diaphragm pumps, with manufacturer's specified maximum flow-rate greater than 0.6 m^3/hour, or vacuum pumps with manufacturer's specified maximum flow-rate greater than 5 m^3/hour (under standard temperature (273 K (0° C)) and pressure (101.3 kPa) conditions), in which all surfaces that come into direct contact with the chemical(s) being processed are made from any of the following materials:
i.1. Alloys with more than 25% nickel and 20% chromium by weight;
i.2. Ceramics;
i.3. Ferrosilicon;
i.4. Fluoropolymers;
i.5. Glass (including vitrified or enamelled coatings or glass lining);
i.6. Graphite or carbon-graphite;
i.7. Nickel or alloys with more than 40% nickel by weight;
i.8. Tantalum or tantalum alloys;
i.9. Titanium or titanium alloys, *or*
i.10. Zirconium or zirconium alloys;
j. Incinerators designed to destroy chemical warfare agents, or chemical weapons precursors controlled by 1C350, having specially designed waste supply systems, special handling facilities and an average combustion chamber temperature greater than 1000° C in which all surfaces in the waste supply system that come into direct contact with the waste products are made from or lined with any of the following materials:
j.1. Alloys with more than 25% nickel and 20% chromium by weight;
j.2. Ceramics; *or*
j.3. Nickel or alloys with more than 40% nickel by weight.

Technical Note: Carbon-graphite is a composition consisting primarily of graphite and amorphous carbon, in which the graphite is 8 percent or more by weight of the composition.

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2B352 Equipment Capable of Use in Handling Biological Materials, as Follows (See List of Items Controlled)

* * * * *

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: For purposes of this entry, isolators include flexible isolators, dry boxes, anaerobic chambers and glove boxes.
Items:
a. Complete containment facilities at P3 or P4 containment level;

Technical Note: P3 or P4 (BL3, BL4, L3, L4) containment levels are as specified in the World Health Organization Laboratory Biosafety Manual (Geneva, 1983).

b. Fermenters capable of cultivation of pathogenic microorganisms, viruses, or for toxin production, without the propagation of aerosols, having a capacity equal to or greater than 100 liters.

Technical Note: Fermenters include bioreactors, chemostats, and continuous-flow systems.

c. Centrifugal separators capable of the continuous separation of pathogenic microorganisms, without the propagation of aerosols, and having all of the following characteristics:
c.1. One or more sealing joints within the steam containment area;
c.2. A flow rate greater than 100 liters per hour;
c.3. Components of polished stainless steel or titanium; *and*
c.4. Capable of *in situ* steam sterilization in a closed state.

Technical Note: Centrifugal separators include decanters.

d. Cross (tangential) flow filtration equipment capable of continuous separation of pathogenic microorganisms, viruses, toxins, and cell cultures without the propagation of aerosols, having all of the following characteristics:
d.1. Equal to or greater than 5 square meters;
d.2. Capable of *in situ* sterilization.
e. Steam sterilizable freeze-drying equipment with a condenser capacity greater than 50 kgs of ice in 24 hours but less than 1,000 kgs;
f. Equipment that incorporates or is contained in P3 or P4 containment housing, as follows:
f.1. Independently ventilated protective full or half suits;
f.2. Class III biological safety cabinets or isolators with similar performance standards;
g. Chambers designed for aerosol challenge testing with microorganisms, viruses, or toxins and having a capacity of 1 m^3 or greater.

Dated: September 24, 2001.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 01–24289 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (Appliance Labeling Rule)

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'') amends its Appliance Labeling Rule (''Rule'') by publishing new ranges of comparability to be used on required labels for compact dishwashers. The Commission also announces that the current ranges of comparability for standard-sized dishwashers, central air conditioners, and heat pumps will remain in effect until further notice. Finally, the Commission amends the portions of Appendices H (Cooling Performance and Cost for Central Air Conditioners) and I (Heating Performance and Cost for Central Air Conditioners) to reflect the

current (2001) Representative Average Unit Cost of Electricity that was published on March 8, 2001 (66 FR 13917), by the Department of Energy (''DOE''), and on May 21, 2001 (66 FR 27856) by the Commission.

EFFECTIVE DATE: The amendments to Appendix C1 to part 305 establishing new ranges of comparability for compact dishwashers will become effective March 22, 2002. The amendments to Appendices H and I to Part 305 will become effective December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580 (202–326–2889); *hnewsome@ftc.gov.*

SUPPLEMENTARY INFORMATION: The Rule was issued by the Commission in 1979, 44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975.[1] The Rule covers eight categories of major household appliances: refrigerators and refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters (this category includes storage-type water heaters, gas-fired instantaneous water heaters, and heat pump water heaters), room air conditioners, furnaces (this category includes boilers), and central air conditioners (this category includes heat pumps). The Rule also covers pool heaters, 59 FR 49556 (Sept. 28, 1994), and contains requirements that pertain to fluorescent lamp ballasts, 54 FR 28031 (July 5, 1989), certain plumbing products, 58 FR 54955 (Oct. 25, 1993), and certain lighting products, 59 FR 25176 (May 13, 1994, eff. May 15, 1995).

The Rule requires manufacturers of all covered appliances and pool heaters to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an ''EnergyGuide'' label and in catalogs. It also requires manufacturers of furnaces, central air conditioners, and heat pumps either to provide fact sheets showing additional cost information, or to be listed in an industry directory showing the cost information for their products. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a ''range of comparability.'' This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled model. The Rule also requires manufacturers to include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report annually (by specified dates for each product type)[2] the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. Under Section 305.10 of the Rule, to keep the required information on labels consistent with these changes, the Commission publishes new ranges (but not more often than annually) if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission publishes a statement that the prior ranges remain in effect for the next year.

The annual submissions of data for dishwashers, central air conditioners, and heat pumps have been made and have been analyzed by the Commission. The ranges of comparability for central air conditioners and heat pumps have not changed by more than 15% from the current ranges for these products. Therefore, the current ranges for these products, which were published on September 16, 1996 (61 FR 48620), will remain in effect until further notice.

The data submissions for dishwashers show no significant change in the high or low ends of the range of comparability scale for standard models, but a significant change in the low end of the compact scale.[3] Rather than require new ranges for the vast majority of dishwashers (the standard category) when only the high end of the compact range has changed significantly, the Commission has decided to publish new ranges of comparability only for compact dishwashers. These new ranges of comparability supersede the current ranges for compact-sized dishwashers, which were published on September 1, 2000.[4] As of the effective date of these new ranges, manufacturers of compact-sized dishwashers must base the disclosures of estimated annual operating cost required at the bottom of EnergyGuides for compact-sized dishwashers on the 2001 Representative Average Unit Costs of Energy for electricity (8.29 cents per kiloWatt-hour) and natural gas (83.7 cents per therm) that were published by DOE on March 8, 2001 (66 FR 13917) and by the FTC on May 21, 2001 (66 FR 27856).

The effective date of the **Federal Register** Notice that established the current ranges of comparability for compact-sized dishwashers was March 22, 2001. Because section 326(c) of EPCA states that the Commission cannot require that labels be changed more often than annually to reflect changes in the ranges of comparability,[5] the effective date of today's revised ranges of comparability for compact-sized dishwashers therefore will be March 22, 2002.

The ranges of comparability for standard-sized dishwashers will remain in effect until further notice. This means that manufacturers of standard-sized dishwashers must continue to use the ranges of comparability that were published on August 25, 1997 (62 FR 44890), and must continue to base the disclosures of estimated annual operating cost required at the bottom of EnergyGuides for these products on the 1997 Representative Average Unit Costs of Energy for electricity (8.31 cents per kiloWatt-hour) and natural gas (61.2 cents per therm) that were published by DOE on November 18, 1996 (61 FR 58679), and by the Commission on February 5, 1997 (62 FR 5316).

In consideration of the foregoing, the Commission revises Appendix C1 of Part 305 by publishing the following ranges of comparability for use in required disclosures (including labeling) for compact-size dishwashers beginning March 22, 2002, and amends the cost calculation formulas in Appendices H and I to Part 305 that manufacturers of

[1] 42 U.S.C. 6294. The statute also requires the Department of Energy (DOE) to develop test procedures that measures how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

[2] Reports for dishwashers are due June 1; reports for central air conditioners and heat pumps are due July 1.

[3] The Commission's classification of ''Standard'' and ''Compact'' dishwashers is based on internal load capacity. Appendix C of the Commission's Rule defines ''Compact'' as including countertop dishwasher models with a capacity of fewer than eight (8) place settings and ''Standard'' as including portable or built-in dishwasher models with a capacity of eight(8) or more place settings. The Rule requires that place settings be determined be in accordance with appendix C to 10 CFR Part 430, subpart B, of DOE's energy conservation standards program.

[4] The current ranges for compact-sized dishwashers (Appendix C1) were published at 65 FR 53165, along with a republication of the current (1997) ranges for standard-sized dishwashers (Appendix C2), which were originally published on August 25, 1997, at 62 FR 44890.

[5] 42 U.S.C. 6296(c).

central air conditioners and heat pumps must include on fact sheets and in directories, effective December 27, 2001.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. Thus, the amendments will not have a ''significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. Appendix C1 to Part 305 is revised to read as follows:

Appendix C1 to Part 305—Compact Dishwashers

Range Information

''Compact'' includes countertop dishwasher models with a capacity of fewer than eight (8) place settings. Place settings shall be in accordance with appendix C to 10 CFR part 430, subpart B. Load patterns shall conform to the operating normal for the model being tested.

Capacity	Range of estimated annual energy consumption (kWh/yr.)	
	Low	High
Compact	214	307

Cost Information

When the above ranges of comparability are used on EnergyGuide labels for compact-sized dishwashers, the estimated annual operating cost disclosure appearing in the box at the bottom of the labels must be derived using the 2001 Representative Average Unit Costs for electricity (8.29¢ per kilo Watt-hour) and natural gas (83.7¢ per therm), and the text below the box must identify the costs as such.

3. In section 2 of Appendix H of Part 305, the text and formulas are amended by removing the figure ''8.03¢'' wherever it appears and by adding, in its place, the figure ''8.29¢''. In addition, the text and formulas are amended by removing the figure ''12.05¢'' wherever it appears and by adding, in its place, the figure ''12.45¢''.

4. In section 2 of Appendix I of Part 305, the text and formulas are amended by removing the figure ''8.03¢'' wherever it appears and by adding, in its place, the figure ''8.29¢''. In addition, the text and formulas are amended by removing the figures ''12.05¢'' and ''12.24¢'' wherever they appear and by adding, in their place, the figure ''12.45¢''.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–24261 Filed 9–27–01; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 40, 44, 275 and 295

[T.D. ATF—467]

RIN 1512–AC55

Implementation of Public Law 106–544 for Certain Amendments Related to Balanced Budget Act of 1997 (2001R–9OT)

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

ACTION: Final Rule (Treasury Decision).

SUMMARY: This document implements regulations relating to certain provisions of the Consolidated Appropriations Act, 2001, Public Law 106–554. These provisions revised the definition of ''manufacturer of cigarette papers and tubes'' and removed the definition of ''cigarette papers'' in section 5702 of Title 26 of the United States Code. The provisions of these sections are retroactive to the effective date of section 9302 of the Balanced Budget Act of 1997, which was January 1, 2000.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226, (202) 927–8210, e-mail, *alctob@atfhq.atf.treas.gov*.

SUPPLEMENTARY INFORMATION: On December 21, 2000, the President signed the Consolidated Appropriations Act, 2001, Public Law 106–554 (114 Stat. 2763), which contains the Community Renewal Tax Relief Act (referred to as the Act). As noted in the accompanying Conference Report, sections 315(a)(2)(A) and (B) of the Act, contained in Title III—Administrative and Technical Provisions, were conforming amendments to reflect the fact that the tax on cigarette papers has not been imposed on ''books'' or papers since January 1, 2000. *See* 146 Cong. Rec. H 12418 (daily ed. December 15, 2000). Section 315(b) of the Act made the effective date of the provisions of section 315 retroactive to the effective date of section 9302 of the Balanced Budget Act of 1997, January 1, 2000 (111 Stat. 672).

The provisions of section 315(a)(2)(A) revised the definition of manufacturer of cigarette papers and tubes. Prior to this revision, the definition of manufacturer of cigarette papers and tubes meant any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for personal use or consumption. Section 315(a)(2)(A) amended the definition to mean ''any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.'' This definition was amended because section 9302 of the Balanced Budget Act of 1997 changed the imposition of the Federal excise tax on cigarette papers under section 5701(c) of Title 26 of the United States Code. Under section 5701(c), a tax now is imposed on all cigarette papers manufactured in the United States regardless of whether the cigarette papers were in books or sets containing more than 25 papers each. Consequently, the definition of manufacturer of cigarette papers and tubes was changed to conform to the Federal excise tax imposed on cigarette papers.

The provisions of section 315(a)(2)(B) removed the definition of cigarette papers in 26 U.S.C. 5702. Prior to this amendment, the definition of cigarette papers meant taxable books or sets of cigarette papers. Because section 5701 of Title 26 of the United States Code imposes a tax on all cigarette papers, regardless of whether the cigarette papers are in books or sets, the definition of cigarette papers was deleted.

In this final rule, we are amending the regulations in 27 CFR parts 40, 44, 275 and 295 to conform to the changes made by the aforementioned provisions. Consequently, we are revising the regulatory definition of ''manufacturer of cigarette papers and tubes'' and removing the definition of ''cigarette papers''.

Administrative Procedure Act

This document merely revises existing regulations to restate the language as currently set forth in the statute. Therefore, we find it is unnecessary to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b), or subject to the effective date limitation in section 553(d).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) do not apply to this final rule. We were not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law. The revenue effects of this rulemaking on small businesses result directly from the underlying statute. Pursuant to 26 U.S.C. 7805(f), we have sent a copy of this regulation to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses. No comments were received.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

Paperwork Reduction Act of 1995

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

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 40

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

27 CFR Part 44

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Customs duties and inspections, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Transportation, Warehouses.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic fund transfer, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, Tobacco, Warehouses.

27 CFR Part 295

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Tobacco.

Issuance

27 CFR chapter I is amended as follows:

PART 40—[AMENDED]

Paragraph 1. The authority citation for 27 CFR part 40 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 40.11 is amended to:

a. Remove the definition of ''cigarette papers''; and

b. Revise the definition of ''manufacturer of cigarette papers and tubes'' to read as follows:

§ 40.11 Meaning of terms.

* * * * *

Manufacturer of cigarette papers and tubes. Any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.

* * * * *

Par. 3. Section 40.391 is revised to read as follows:

§ 40.391 Persons required to qualify.

Every person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption, must first qualify as a manufacturer of cigarette papers and tubes in accordance with the provisions of this subpart.

PART 44—[AMENDED]

Par. 4. The authority citation for 27 CFR part 44 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 5. Section 44.11 is amended to:

a. Remove the definition of ''cigarette papers''; and

b. Revise the definition of ''manufacturer of cigarette papers and tubes'' to read as follows:

§ 44.11 Meaning of terms.

* * * * *

Manufacturer of cigarette papers and tubes. Any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.

* * * * *

PART 275—[AMENDED]

Par. 6. The authority citation for 27 CFR part 275 continues to read as follows:

Authority: 18 U.S.C. 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721, 5722, 5723, 5741, 5754, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 7. Section 275.11 is amended to:

a. Remove the definition of ''cigarette papers''; and

b. Revise the definition of ''manufacturer of cigarette papers and tubes'' to read as follows:

§ 275.11 Meaning of terms.

* * * * *

Manufacturer of cigarette papers and tubes. Any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.

* * * * *

PART 295—[AMENDED]

Par. 8. The authority citation for 27 CFR part 295 continues to read as follows:

Authority: 26 U.S.C. 5703, 5704, 5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805, 44 U.S.C. 3504(h).

Par. 9. Section 295.11 is amended to:

a. Remove the definition of ''cigarette papers''; and

b. Revise the definition of ''manufacturer of cigarette papers and tubes'' to read as follows:

§ 295.11 Meaning of terms.

* * * * *

Manufacturer of cigarette papers and tubes. Any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.

* * * * *

Signed: July 17, 2001.

Bradley A. Buckles,

Director.

Approved: August 23, 2001.

Timothy E. Skud,

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

[FR Doc. 01–24052 Filed 9–27–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Charleston–01–101]

RIN 2115–AA97

Security Zones; Port of Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is closing a section of the Cooper River in the vicinity of U.S. Naval Weapons Station, Charleston, SC, to all vessel traffic until further notice. This security zone is needed for national security reasons following the recent events in New York City, Washington DC and Western Pennsylvania. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port, Charleston, South Carolina or his designated representative.

DATES: This regulation becomes effective at 12 noon on September 19, 2001 and will terminate at 12 noon on December 17, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Charleston 1–101] and are available for inspection or copying at Marine Safety Office Charleston, 196 Tradd Street, Charleston, SC 29401 between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Erin Healey, Coast Guard Marine Safety Office Charleston, at (843) 724–7686.

SUPPLEMENTARY INFORMATION

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Because of the events described below, publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The Coast Guard is closing a section of the Cooper River in the vicinity of U.S. Naval Weapons Station, Charleston, SC, to all vessel traffic until further notice to protect the significant national security interests in this area. The Captain of the Port Charleston has closed the Cooper River to all vessel traffic from Cooper River Lighted Buoy 62 (LLNR 2930) in the vicinity of the entrance to Goose Creek to Cooper River Light 87 (LLNR 3135) near the entrance to Foster Creek until further notice. Goose Creek is also closed until further notice.

This security zone is needed for national security reasons following the recent terrorist attacks in New York City, Washington, DC and Western Pennsylvania, particularly the attack on United States military interests in Washington, DC. There will be Coast Guard and naval patrol vessels on scene to monitor traffic through these areas. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, Charleston, South Carolina.

The Coast Guard has met with members of the waterway community to discuss this closure. Vessels may be allowed to enter the zone with the authorization of the Coast Guard Captain of the Port. Vessels wishing to transit the security zone are encouraged to contact the Captain of the Port as soon as possible to request this authorization. This security zone only slightly extends the existing restricted area for this facility found in 33 CFR 334.460.

Regulatory Evaluation

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

Small Entities

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

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit a portion of the Cooper River in the vicinity of U.S. Naval Weapons Station, Charleston, SC. The Coast Guard preliminary review indicates this temporary rule will not have a significant economic impact on a substantial number of small entities under 5 U.S.C. 605(b) because small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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

Collection of Information

This rule calls for no new collection of information requirements under the

Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Environmental

The Coast Guard preliminary review indicates this temporary rule is categorically excluded from further environmental documentation under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.lD. The environmental analysis and Categorical Exclusion Determination will be prepared and submitted after establishment of this temporary security zone, and will be available in the docket. This temporary rule protects the Navy facility, the public, and the waterways of the United States. The Categorical Exclusion Determination will be made available in the docket for inspection or copying where indicated under **ADDRESSES.**

Protection of Children

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

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 relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

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

2. A new temporary § 165.T07–101 is added to read as follows:

§ 165.T07–101 Security Zone; Cooper River, Charleston, South Carolina.

(a) *Regulated Area.* The following closed waters are encompassed in the security zone for this section: Captain of the Port Charleston, South Carolina has closed the Cooper River to all vessel traffic from Cooper River Lighted Buoy 62 (LLNR 2930) in the vicinity of the entrance to Goose Creek to Cooper River Light 87 (LLNR 3135) near the entrance to Foster Creek. Goose Creek is also closed.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz).

(c) *Dates.* This section becomes effective at 12 noon on September 19, 2001 and will terminate at 12 noon on December 17, 2001. The Coast Guard will publish a separate document in the **Federal Register** announcing any earlier termination of this rule.

Dated: September 19, 2001.

G. W. Merrick,

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

[FR Doc. 01–24425 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Juan–01–098]

RIN 2115–AA97

Security Zones; St. Croix, U.S. Virgin Islands

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary fixed security zones around all commercial tank and freight vessels moored at every dock at the HOVENSA refinery at St. Croix, U.S. Virgin Islands. All persons aboard commercial tank and freight vessels moored at the HOVENSA docks must remain on board for the duration of the port call unless escorted by designated HOVENSA personnel or specifically permitted to disembark by the U.S. Coast Guard Captain of the Port San Juan. These security zones are needed for national security reasons to protect the public and port of HOVENSA from potential subversive acts.

DATES: This regulation becomes effective at 9 p.m. on September 15, 2001 and will terminate at 11:59 p.m. on October 15, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP San Juan–01–098] and are available for inspection or copying at

Marine Safety Office San Juan, RODVAL Bldg, San Martin St. #90 Ste 400, Guaynabo, PR 00968, between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Robert Lefevers, Marine Safety Office San Juan, Puerto Rico at (787) 706–2440.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Because of recent terrorist attacks in the United States, there is an urgent need to protect persons in the vicinity of the HOVENSA refinery. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to protect the public and this port in the U.S. Virgin Islands. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

On September 11, 2001, there were terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia. Given these events and the highly volatile nature of the substances stored at the HOVENSA facility, there is a risk that subversive activity could be launched by persons aboard commercial tank and freight vessels calling at the HOVENSA facility in St. Croix, USVI. The Captain of the Port San Juan is reducing this risk by prohibiting all persons aboard these vessels from disembarking while moored at the HOVENSA facility unless escorted by designated HOVENSA personnel or specifically permitted by the Captain of the Port San Juan. HOVENSA security personnel, in conjunction with local police department personnel, will assist in the enforcement of these security zones.

Regulatory Evaluation

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

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because persons may be allowed to disembark the vessels on a case by case basis with the authorization of the Captain of the Port and this temporary rule is only in effect for a limited time.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Environmental

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

Protection of Children

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

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 relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

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

2. A new temporary § 165.T07–098 is added to read as follows:

§ 165.T07–098 Security Zone; HOVENSA Refinery, St. Croix, U.S. Virgin Islands.

(a) *Regulated area.* This section establishes temporary fixed security zones encompassing 20 yards around all commercial tank and freight vessels moored at every dock at the HOVENSA refinery at St Croix, U.S. Virgin Islands. All persons aboard commercial tank or freight vessels moored at the docks must remain on board for the duration of the port call unless escorted by designated HOVENSA personnel or specifically permitted to disembark by the Captain of the Port San Juan. These security zones are needed for national security reasons to protect the public and port of HOVENSA from potential subversive acts.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, all persons aboard commercial tank and freight vessels moored at the docks must remain on board for the duration of the port call unless escorted by designated HOVENSA personnel or specifically authorized by the Captain of the Port San Juan, or a Coast Guard commissioned, warrant, or petty officer designated by him. In addition to publishing it in the **Federal Register**, the Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157.1 Mhz).

(c) *Dates.* This section becomes effective at 9 p.m. on September 15, 2001 and will terminate at 11:59 p.m. on October 15, 2001.

Dated: September 15, 2001.

J.A. Servidio,

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

[FR Doc. 01–24424 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–166]

RIN 2115–AA97

Safety Zone; Tomlinson Bridge, Quinnipiac River, New Haven, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Quinnipiac River within 100 yards of the north side and 500 yards of the south side of the Tomlinson Bridge. This safety zone will prevent marine traffic from transiting beneath the Tomlinson Bridge while a new, permanent lift span is installed on the bridge. The safety zone is needed to enable installation of a new lift span on the bridge and to protect marine traffic from the hazards associated with this operation.

DATES: This rule is effective from 7 a.m. (EST) on October 15, 2001 through 7 a.m. (EST) on October 20, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD01–01–166 and are available for inspection or copying at Coast Guard Group/Marine Safety Office Long Island Sound, Waterways Management Branch, 120 Woodward Avenue, New Haven, CT between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) Pamela Garcia, Waterways Management Branch, Group/MSO Long Island Sound, telephone (203) 468–4429.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The safety zone is being established to enable the installation of a new lift span on the Tomlinson Bridge. This operation is one of the final stages of a multi-year bridge reconstruction project. The timing of this phase is dependent upon a number of variables, including tidal conditions and ambient temperatures for curing concrete. Following the installation of the new lift span, portions of the navigable channel must be dredged and the temporary Tomlinson Bridge will be removed. Both of these operations are permitted to occur only between October 1 and January 31.

For these reasons, it was determined that the delay inherent in the NPRM process would be contrary to the public interest. Failure to complete installation of the new lift span will delay reopening the Tomlinson Bridge and prevent removal of the temporary bridge until October 2002. That delay would, in turn, result in significant additional construction costs and prolong the impediment to navigation represented by the presence of two adjacent bridges across the waterway.

Moreover, it was determined that the NPRM process would be unnecessary. The State of Connecticut met with known waterway users August 22, 2000 and July 10, 2001 to discuss the anticipated channel closure required for the lift span installation. Waterway users in attendance acknowledge the necessity of the channel closure and the ability to adjust their waterway use accordingly. The State has continued to communicate with waterway users to apprise them of the anticipated safety zone dates and has identified the effective dates of this temporary rule as those preferred by those affected.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the reasons stated above, we have determined that a delay in the effective dates of the temporary rule would be unnecessary and contrary to the public interest. Advance notice of the safety zone will be disseminated by notice to mariners.

Background and Purpose

The Coast Guard is establishing a safety zone on all waters of the Quinnipiac River within 100 yards of the north side and 500 yards of the south side of the Tomlinson Bridge, located in approximate position 41° 17′9″ N, 072° 54′3″ W. This safety zone is effective from 7 a.m. (EST) on October 15, 2001 to 7 a.m. (EST) on October 20, 2001. The safety zone will prevent waterway users from transiting through this portion of the Quinnipiac River

while the new Tomlinson Bridge lift span is transported by barge beneath the bridge and raised into position. The safety zone will enable construction personnel to complete this vital phase of a long-term bridge reconstruction project and protect mariners from the hazards associated with this operation.

Regulatory Evaluation

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

Recreational vessel traffic on the waterway is minimal during the period of the proposed safety zone. The State of Connecticut held several meetings in advance of the proposed channel closure to apprise known waterway users of the effective dates of the safety zone so that necessary, alternate arrangement could be made to avoid or mitigate any adverse consequences.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The proposed rule may affect the owners and operators of vessels intending to transit the boundaries of the safety zone during its effective dates. The rule will not have a substantial affect on small entities because it has been preceded by regular communication between the State of Connecticut and known waterway users regarding the need for and timing of the channel closure. Any entities that might be affected by the closure have had sufficient advance notice to make alternate arrangements.

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–166 to read as follows:

§ 165.T01–166 Safety Zone: Tomlinson Bridge, Quinnipiac River, New Haven Harbor, New Haven, CT.

(a) *Location*. The following area is designated as a safety zone: all waters of the Quinnipiac River within 100 yards of the north side and 500 yards of the south side of the Tomlinson Bridge,

located at approximate position 41° 17′9″ N, 072° 54′3″ W.

(b) *Enforcement period.* This section is effective from 7 a.m. (EST) October 15, 2001 to 7 a.m. (EST) October 20, 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. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: September 20, 2001.

J.J. Coccia,

Captain, U.S. Coast Guard, Captain of the Port, Group/MSO Long Island Sound.

[FR Doc. 01–24423 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AJ58

Board of Veterans' Appeals: Rules of Practice—Subpoenas

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Board of Veterans' Appeals (Board) adjudicates appeals from denials of claims for veterans' benefits filed with the Department of Veterans Affairs (VA). This document adopts as a final rule amendments to a Board Rule of Practice concerning subpoenas.

DATES: Effective date: October 29, 2001.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: On February 15, 2000, VA published a proposed rule in the **Federal Register** (65 FR 7468), to clarify a Board Rule of Practice at 38 CFR 20.711 dealing with subpoena procedures in Board proceedings. The proposed changes relate to: (1) Where such a motion must be filed; (2) ruling on the motion; (3) service of a subpoena; (4) motions to quash or modify subpoenas; and (5) enforcing compliance with a subpoena.

Only two comments were received. A national veterans' service organization stated that it concurred in the proposed amendments. A representative of a group of attorneys engaged in the practice of veterans' law posed several objections.

The primary objection of this writer, occupying approximately half of his comments, is grounded in the misconception that these amendments remove authority from local VA offices to issue subpoenas in cases that are not before the Board. The Rule never gave that authority, nor do the amendments remove it.

The authority of field facility heads to issue subpoenas in matters within their jurisdiction is at 38 CFR 2.1(b). The Board's Rules of Practice deal only with procedures in matters that are before the Board and within its statutory jurisdiction. The Rule in question appears in a section of the Board's Rules entitled ''Hearings on Appeal.'' Paragraph (a) of the Rule, which is not being amended, describes who may move for a subpoena under the rule as ''the *appellant*, or his or her representative.'' (Emphasis added.) What is to be removed is a now obsolete procedure that once permitted VA field facility directors to decide motions for subpoenas in Board proceedings held at those facilities. Under 38 U.S.C. 7102(a) only members of the Board may make determinations on motions in Board proceedings.

The writer objects to the addition of certain quoted language to Rule 711(e) (38 CFR 20.711(e)) and urges that it be stricken. The language he quotes is being removed from paragraph (e), not added, as the proposed rule-making document explained. Thus this objection is also moot.

Next, the writer objects to language in proposed Rule 711(h) (which deals with motions to quash or modify a subpoena), stating that it ''creates a mechanism for adversarial proceedings regarding the modification or attempts by the Agency to 'quash' subpoena requests.'' He maintains that this would be for the convenience of VA at the expense of veterans.

Motions to quash are not new. The procedure has been available through this Rule since 1992. (57 FR 4088, 4122) Permitting motions to quash subpoenas is standard practice throughout American jurisprudence. Such motions provide a mechanism for resolving disputes between persons seeking subpoenas and persons subpoenaed and has nothing to do with agency convenience, or the lack of it.

The amendments in fact aid veterans and their representatives, who are usually the persons seeking subpoenas as a means of obtaining evidence to present to the Board. The amendments provide a way for them to get relief when the person who has evidence makes unreasonable demands regarding its release. The proposed rule-making document gives the example of unreasonable demands for reimbursement for costs involved in honoring a subpoena duces tecum to obtain physical evidence, typically documents. The writer further implies that this amendment is purposefully designed to impede access to documents held by VA. That is simply not the case. VA itself is seldom the subject of a subpoena in a Board proceeding because there are other methods for readily obtaining VA records. See 38 U.S.C. 5701(b) and 5 U.S.C. 552.

The proposed rule is adopted without changes.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will 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. This rule will affect VA beneficiaries and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: September 20, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, amend 38 CFR part 20 as follows:

PART 20—BOARD OF VETRANS' APPEALS: RULES OF PRACTICE

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

Authority: 38 U.S.C. 501(a).

2. Section 20.711 is amended by:

(a) Revising paragraphs (c) and (e);

(b) Revising the second sentence of paragraph (f);

(c) Revising the first sentence of paragraph (g);

(d) Revising paragraph (h); and

(e) Adding paragraph (i).

The revisions and addition read as follows:

§ 20.711 Rule 711. Subpoenas.

* * * * *

(c) *Where filed.* Motions for a subpoena must be filed with the Director of Administrative Service (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW, Washington, DC 20420.

* * * * *

(e) *Ruling on motion for subpoena.*

(1) *To whom assigned.* The ruling on the motion will be made by the Member or panel of Members to whom the case is assigned. Where the case has not been assigned, the Chairman, or the Chairman's designee, will assign the case to a Member or panel who will then rule on the motion.

(2) *Procedure.* If the motion is denied, the Member(s) ruling on the motion will issue an order to that effect which sets forth the reasons for the denial and will send copies to the moving party and his or her representative, if any. Granting the motion will be signified by completion of a VA Form 0714, ''Subpoena,'' if attendance of a witness is required, and/or VA Form 0713, ''Subpoena Duces Tecum,'' if production of tangible evidence is required. The completed form shall be signed by the Member ruling on the motion, or, where applicable, by any panel Member on behalf of the panel ruling on the motion, and served in accordance with paragraph (g) of this section.

(f) * * * A subpoena for a witness will not be issued or served unless the party on whose behalf the subpoena is issued submits a check in an amount equal to the fee for one day's attendance and the mileage allowed by law, made payable to the witness, as an attachment to the motion for the subpoena. * * *

(g) * * * The Board will serve the subpoena by certified mail, return receipt requested. * * *

(h) *Motion to quash or modify subpoena.*

(1) *Filing procedure.* Upon written motion of the party securing the subpoena, or of the person subpoenaed, the Board may quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown. Relief may include, but is not limited to, requiring the party who secured the subpoena to advance the reasonable cost of producing books, papers, or other tangible evidence. The motion must specify the relief sought and the reasons for requesting relief. Such motions must be filed at the address specified in paragraph (c) of this section within 10 days after mailing of the subpoena or the time specified in the subpoena for compliance, whichever is less. The motion may be accompanied by such supporting evidence as the moving party may choose to submit. It must be accompanied by a declaration showing:

(i) That a copy of the motion, and any attachments thereto, were mailed to the party who secured the subpoena, or the person subpoenaed, as applicable;

(ii) The date of mailing; and

(iii) The address to which the copy was mailed.

(2) *Response.* Not later than 10 days after the date that the motion was mailed to the responding party, that party may file a response to the motion at the address specified in paragraph (c) of this section. The response may be accompanied by such supporting evidence as the responding party may choose to submit. It must be accompanied by a declaration showing:

(i) That a copy of the response, and any attachments thereto, were mailed to the moving party;

(ii) The date of mailing; and

(iii) The address to which the copy was mailed. If the subpoena involves testimony or the production of tangible evidence at a hearing before the Board and less than 30 days remain before the scheduled hearing date at the time the response is received by the Board, the Board may reschedule the hearing to permit disposition of the motion.

(3) *Ruling on the motion.* The Member or panel to whom the case is assigned will issue an order disposing of the motion. Such order shall set forth the reasons for which a motion is either granted or denied. The order will be mailed to all parties to the motion. Where applicable, an order quashing a subpoena will require refund of any sum advanced for fees and mileage.

(i) *Disobedience.* In case of disobedience to a subpoena issued by the Board, the Board will take such steps as may be necessary to invoke the aid of the appropriate district court of the United States in requiring the attendance of the witness and/or the production of the tangible evidence subpoenaed. A failure to obey the order of such a court may be punished by the court as a contempt thereof.

(**Authority:** 38 U.S.C. 5711, 5713, 7102(a))

[FR Doc. 01–24304 Filed 9–27–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4133a; FRL–7060–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Ten 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 ten major sources of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 24, 2001 (66 FR 44532), EPA stated that if it received adverse comment by September 24, 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 24, 2001 (66 FR 44580). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The Direct final rule is withdrawn as of September 28, 2001.

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

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(167) is withdrawn as of September 28, 2001.

[FR Doc. 01–23633 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4144a; FRL–7061–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Ten 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 ten 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 24, 2001 (66 FR 44538), EPA stated that if it received adverse comment by September 24, 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 24, 2001 (66 FR 44581). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The Direct final rule is withdrawn as of September 28, 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.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(178) is withdrawn as of September 28, 2001.

[FR Doc. 01–23634 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4141a; FRL–7061–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for Armco Inc., Butler Operations Main Plant and Butler Operations Stainless Steel Plant 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 Armco Inc., Butler Operations Main Plant and Butler Operations Stainless Steel Plant, major sources of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 22, 2001 (66 FR 44053), EPA stated that if it received adverse comment by September 21, 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 22, 2001 (66 FR 44097). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The Direct final rule is withdrawn as of September 28, 2001.

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

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(175) is withdrawn as of September 28, 2001.

[FR Doc. 01–23635 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4136a; FRL–7060–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Nine 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 nine major sources of volatile organic compounds (VOC) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 24, 2001 (66 FR 44528), EPA stated that if it received adverse comment by September 24, 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 24, 2001 (66 FR 44580). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The Direct final rule is withdrawn as of September 28, 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.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(170) is withdrawn as of September 28, 2001.

[FR Doc. 01–23636 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4146a; FRL–7061–6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of Direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve a revision which establishes reasonably available control technology (RACT) requirements for Koppel Steel Corporation, a major source of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 24, 2001 (66 FR 44544), EPA stated that if it received adverse comment by September 24, 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 24, 2001 (66 FR 44581). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The Direct final rule is withdrawn as of September 28, 2001.

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

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(180) is withdrawn as of September 28, 2001.

[FR Doc. 01–23637 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4147a; FRL –7061–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of Direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for four major sources of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 22, 2001 (66 FR 44057), EPA stated that if it received adverse comment by September 21, 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 22, 2001 (66 FR 44096). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The Direct final rule is withdrawn as of September 28, 2001.

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

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020 (c)(181) is withdrawn as of September 28, 2001.

[FR Doc. 01–23638 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–7065–9]

Clean Air Act Final Approval of Operating Permits Program; Commonwealth of Massachusetts

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 Commonwealth of Massachusetts. Massachusetts submitted its program for the purpose of complying with federal Clean Air Act requirements for a State to develop a program to issue operating permits to all major stationary and certain other sources of air pollution. EPA granted interim approval to Massachusetts' operating permit program on February 2, 1996.

DATES: This direct final rule is effective on November 27, 2001 without further notice, unless EPA receives relevant adverse comment by October 29, 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 Massachusetts addressed EPA's interim approval issues?
What additional changes to Massachusetts' program is EPA approving?
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, 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 Massachusetts, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

What Is Being Addressed in This Document?

Where an operating permit program substantially, but not fully, meets the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations part 70, EPA may grant the program interim approval. Because Massachusetts' 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 February 2, 1996 (61 FR 3827). The interim approval document described the corrections that had to be made in order for Massachusetts' program to receive full approval. Massachusetts submitted two revisions to its operating permit program; these revisions were dated November 19, 1996 and May 11, 2001. This document describes changes made to the Massachusetts operating permit program since interim approval was granted.

How Has Massachusetts Addressed EPA's Interim Approval Issues?

EPA's February 2, 1996 rulemaking explained that Massachusetts must make the following rule changes to receive full approval of its operating permit program.

(1) Revise Appendix C(8)(b)(4) to eliminate the applicability of the permit shield for administrative amendments. Massachusetts changed Appendix C(8)(b)(4) to state the permit shield provisions shall not apply to changes made to the operating permit using the modification procedures of Appendix C(8).

(2) In Appendix C(7)(b)(3)(e), the program regulation provided that a notice of an operational flexibility change made pursuant to an intra-facility emissions trading plan may include notice of ''[a]ny permit term or condition that is no longer applicable as a result of the change.'' Changes made pursuant to an intra-facility emissions trading plan must be provided for in the permit, and such plans provide no authority to render permit conditions inapplicable through a simple notice. 40 CFR 70.4(b)(12)(iii)(A). Massachusetts has removed this section of its regulation.

(3) Appendix C(4)(a)(5) did not clearly require a facility to apply for an operating permit if it became Subject to Appendix C without any new construction, for example, by relaxing an emissions cap in a restricted emission status plan approval. Appendix C(4)(a)(6) and Appendix C(4)(a)(7) have been added to clarify when an application must be submitted for facilities that exceed the major source threshold of a regulated pollutant.

(4) Appendix C(8)(a)(2)(b) prohibited any *relaxation* of monitoring, reporting, or recordkeeping from qualifying as a minor permit modification. EPA's rule prohibits all *significant changes* to monitoring, reporting or recordkeeping, whether or not they are classified as a relaxation, from being processed as a minor permit modification. Massachusetts has revised Appendix C(8)(a)(2)(b) by replacing *relaxation* with *significant change*.

EPA has concluded that these changes address all of EPA's interim approval issues.

What Additional Changes to Massachusetts Program Is EPA Approving?

Massachusetts made other substantive changes after EPA granted interim approval to its operating permit program on February 2, 1996. On November 19, 1996 and May 11, 2001, Massachusetts submitted revisions to 310 CMR 7.00: Appendix C: Operating Permit and Compliance Program. In addition to certain changes in formatting and non-substantive revisions, Massachusetts made the following substantive program changes.

(1) Massachusetts amended the definition of ''volatile organic compound'' (VOC) to be consistent with revisions EPA has made to its definition.

(2) Massachusetts clarified the applicability of Appendix C by adding the definition of *facility* which is more inclusive than the federal definition of *major source.* Unlike *major source,* a *facility* is not subdivided by Major Group as described in the Standard Industrial Classification Manual (SIC). The term facility aggregates all emissions of a pollutant located on the same, adjacent, or contiguous property, regardless of the SIC grouping of the emission units.

(3) Massachusetts amended Appendix C(2) to ensure that the time frame for submitting an operating permit application by a non-major source does not conflict with EPA requirements. As previously promulgated, Massachusetts' rule allowed facilities to submit applications subsequent to the date established by EPA at 40 CFR part 63.

(4) Massachusetts amended the definition of major source to include a provision to sum all HAPs regardless of SIC code classification. This is consistent with EPA's definition of a major source as defined under Section 112 of the CAA. 42 U.S.C. 7412.

(5) In Appendix C(2)(f), Massachusetts provides two additional mechanisms for a source to establish that its emissions are below major source thresholds, and, therefore, the source is not required to apply for an operating permit. Pursuant to section (2)(f)(3), a source may take a limit on its potential to emit in a construction permit, or ''plan approval.'' Pursuant to section (2)(f)(4), a facility with actual emissions below 50 or 25 percent of the major source thresholds may document those very low emissions to maintain its exemption from the operating permit program.

(6) Massachusetts adopted and incorporated by reference the provisions of the acid rain program as amended on October 24, 1997, and 40 CFR part 76 as in effect on September 1, 1998. Both provisions were promulgated after EPA granted interim approval to Massachusetts' operating permit program on February 2, 1996.

(7) Massachusetts added a provision reducing the 45-day period for EPA objection to a proposed operating permit if EPA notifies Massachusetts before the end of 45 days that the Agency does not intend to object to the operating permit. This provision has no effect on the time frame for citizen petitions. The 60-day filing period for a citizen's petition runs from the expiration of EPA's full 45-day objection period.

What Is Involved in This Final Action?

EPA is taking final action to fully approve Massachusetts' operating permit program. EPA is also taking action to approve the additional program changes Massachusetts submitted on November, 19, 1996 and May 11, 2001. 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 27, 2001 unless the Agency receives adverse comments by October 29, 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 27, 2001.

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. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this 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 approves 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 approves 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 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 27, 2001. Interested parties should comment in response to the rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the rule. 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

Administrative practice and procedure, Air pollution control, Environmental Protection Agency, Intergovernmental relations, Operating

permits, and Reporting and recordkeeping requirements.

Dated: September 19, 2001.

Robert W. Varney,

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 revising paragraph (b) in the entry for Massachusetts to read as follows:

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

* * * * *

Massachusetts

* * * * *

(b) The Massachusetts Department of Environmental Services submitted program revisions on November, 19, 1996 and May 11, 2001. EPA is hereby granting Massachusetts full approval effective on November 27, 2001.

* * * * *

[FR Doc. 01–24064 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

42 CFR Parts 402 and 405

CMS–6145–FC

RIN 0938–AK49

Medicare Program; Civil Money Penalties, Assessments, and Revised Sanction Authorities

AGENCY: Centers for Medicare and Medicaid Services (CMS), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period is a technical rule that updates our civil money penalty (CMP) regulations to add CMP authorities already enacted as part of the Balanced Budget Act of 1997 (BBA) and delegated to us. The rule delineates our authority to assess penalties for: failure to bill outpatient therapy services or comprehensive outpatient rehabilitation services (CORS) on an assignment-related basis, failure to bill ambulance services on an assignment-related basis, failure to provide an itemized statement for Medicare items and services to a Medicare beneficiary upon his/her request, and failure of physicians or nonphysician practitioners to provide diagnostic codes for items or services they furnish or failure to provide this information to the entity furnishing the item or service ordered by the practitioner. The rule also contains technical changes to further conform our current CMP rules to changes in the statute enacted by the BBA.

DATES: These regulations are effective on October 29, 2001. We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 27, 2001.

ADDRESSES: Mail written comments (one original and three copies) to the following address only: Centers for Medicare and Medicaid Services, Department of Health and Human Services, Attention: CMS–6145–FC, P.O. Box 8013, Baltimore, MD 21244–8013.

Since comments must be *received* by the date specified above, please allow sufficient time for mailed comments to be received timely in the event of delivery delays. If you prefer, you may deliver your written comments (one original and three copies) by courier to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–16–03, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the two above addresses may be delayed and received too late to be considered. Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code CMS–6145–FC.

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Joel Cohen, (410) 786–3349.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 1998, we published a final rule in the **Federal Register** (63 FR 68687), the procedures for pursuing civil money penalties (CMPs) and assessments now set forth at 42 CFR part 402. We are now amending part 402, subpart B, to incorporate additional CMPs authorized by sections 4541(a)(2), 4531(b)(2), 4311(b), and 4317 of the Balanced Budget Act of 1997 (BBA), Public Law 105–33. This final rule with comment period incorporates the statutory revisions of the BBA concerning CMPs and assessments into our existing CMP and assessment regulations at 42 CFR part 402, subparts A and B, as well as makes technical changes to existing delegated authority. BBA statutory revisions that would affect subpart C, which addresses our exclusion authority, are not addressed in this final rule, but will be addressed in a separate rulemaking.

II. Provisions of the Final Rule

This final rule amends 42 CFR part 402, to incorporate changes resulting from the enactment of the BBA. Specifically, we are revising §§ 402.1(c), 402.1(d), 402.105(d), and 402.107 and adding § 402.105(g) with regard to the following statutory authorities that are delegated to us:

A. Payment for Outpatient Therapy Services and Comprehensive Outpatient Rehabilitation Services

Section 4541(a)(2) of the BBA adds subsection (k) to section 1834 of the Social Security Act (the Act), Payment for Outpatient Therapy Services and Comprehensive Outpatient Rehabilitation Services. Subsection (k)(6), through its cross-reference to section 1842(b)(18) of the Act, requires that billing for therapy services be subject to the mandatory assignment requirements of the Medicare statute. Failure to bill on an assignment-related basis may subject the violator to certain sanctions, including assessments and CMPs, as provided by section 1842(j)(2) of the Act. (See § 402.105(d)(3).)

B. Fee Schedule for Ambulance Services

Section 4531(b)(2) of the BBA adds paragraph (l) to section 1834 of the Act, Establishment of Fee Schedule for Ambulance Services. This provision requires the establishment of a fee schedule for ambulance services furnished and requires, in section 1834(l)(6) of the Act, suppliers of ambulance services to accept assignment (that is, to accept Medicare's approved payment amount as payment in full). Failure to bill on an assignment-related basis may subject the violator to sanctions, including assessments and CMPs, as provided by section 1842(j)(2) of the Act. (See § 402.105(d)(4).)

C. Request for Itemized Statement for Medicare Items and Services

Section 4311(b) of the BBA adds section 1806 to the Act. Section 1806(b), Request For Itemized Statement For Medicare Items and Services, provides that a Medicare beneficiary has the right

to request and receive an itemized statement from health care providers (for example, hospitals, nursing facilities, home health agencies, physicians, practitioners, and Durable Medical Equipment Prosthetics, Orthotics and Supplies (DMEPOS) suppliers). From the date of the beneficiary's request, the health care provider has 30 days to furnish this statement to the beneficiary. Any provider or supplier who fails to provide an itemized statement may be subject to a CMP of $100 for each failure. (See § 402.105(g).)

D. Provision of Diagnostic Codes

Section 4317 of the BBA amends section 1842(p) of the Act to include nonphysician practitioners under the requirement to provide diagnostic codes for items and services they furnish or to provide this information (if required) to the entity furnishing the item or service if ordered by the physician or nonphysician practitioner. Failure of these practitioners to supply required diagnostic codes subjects them, through a cross-reference to section 1842(j)(2) of the Act, to sanctions including assessments. (See § 402.1(c)(16).)

E. Technical Amendment/Revision

Section 4031(a)(2) of the BBA adds a new paragraph as section 1882(s)(3) of the Act. As a result, the original section 1882(s)(3) of the Act is redesignated as section 1882(s)(4) of the Act. We have conformed the regulations to reflect this redesignation. (See § 402.1(c)(29) and § 402.1(e)(vii).)

F. Technical Correction

Finally, this final rule makes a technical correction to § 405.520(c), which currently lists the maximum civil money penalty amount as $2,000 for each bill or request for payment in which a beneficiary was billed in excess of Medicare coinsurance and deductible amounts. Section 231(c) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191, increases the maximum civil money penalty amount to $10,000 for certain acts described in section 1128A(a) of the Act. Section 1128A(a) of the Act provides the basis for the amount of CMPs that may be imposed under § 405.520(c). We are accordingly clarifying that the maximum CMP amount under § 405.520(c) is $10,000 for each bill or request for payment. To do this, we are revising § 405.520(c) because the CMP it describes was again addressed in part 402 when it was published on December 14, 1998 (63 FR 68690). Specifically, §§ 402.1(c)(11) and 402.105(d)(2)(viii) address CMPs that we may impose when practitioners bill for services on a nonassigned basis in violation of section 1842(b)(18) of the Act. When part 402 was published, however, it did not take into account the existing provision in § 405.520(c) that addresses the same issues. To eliminate any confusion that the duplication may cause, we are revising the CMP provision that appears in § 405.520(c) to make the appropriate cross-reference to the provision that now appears in §§ 402.1(c)(11), 402.105(d)(2)(viii), and 402.107(b)(8). This conforming change serves as a cross-reference to the appropriate CMP provisions and automatically corrects the maximum penalty amount for the CMP described in § 405.520(c).

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite prior public comment on proposed rules. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

In the present rulemaking, we find that subjecting this rule to a notice and comment period is unnecessary because this final rule with comment period incorporates technical changes to previously published CMP authorities and codifies additional authorities that result from the enactment of sections 4541(a)(2), 4531(b)(2), 4311(b), 4317, and 4031(a)(2) of the BBA and section 231(c) of the HIPAA. This final rule with comment period does not alter the legal responsibilities and regulatory requirements of the affected program participants, and does nothing more than update our regulations to reflect already existing statutory obligations.

Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a 60-day comment period for the public.

IV. Regulatory Impact Statement

We have examined the requirements of Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980 Public Law 96–354), Executive Order 13132 (August 4, 1999, Federalism) and the Unfunded Mandates Reform Act of 1995 (2 USC 1532).

Executive Order 12866 found in 58 FR 51735 directs agencies taking ''significant regulatory action'' to reflect consideration of all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). This technical rule is not a significant regulatory action as defined by section 3(e) of Executive Order 12866. We believe that there are no significant costs associated with this technical rule that would impose any mandates on State, local or tribal governments, or the private sector that would result in an expenditure of $100 million in any given year. This rule incorporates technical changes to previously published CMP authorities and establishes in regulation additional authorities mandated by the BBA. We expect that all program participants will comply with the statutory and regulatory requirements making unnecessary the imposition of a CMP. Therefore, we do not anticipate more than a de minimis economic impact as a result of this technical change. Further, any impact that may occur will only affect those limited few individuals or entities that engage in prohibited behavior. We do not anticipate any savings or costs as a result of this technical change.

The Regulatory Flexibility Act of 1980 codified in 15 USC 603(a), as modified by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires agencies to determine whether this technical rule will have a significant economic effect on a substantial number of small entities and, if so, to identify regulatory options that could mitigate the impact when publishing a general notice of proposed rulemaking. We believe that any impact as a result of the technical rule will be minimal, since, as mentioned above, the only individuals or entities affected will be those limited few who engage in prohibited conduct. Since the vast majority of program participants comply with statutory and regulatory requirements, any aggregate economic impact will not be significant.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million (2 U.S.C. 1532). We believe that there are no

significant costs associated with this technical rule that would impose any mandates on State, local or tribal governments, or the private sector that would result in an expenditure of $100 million in any given year. As was previously mentioned, since the majority of program participants comply with statutory and regulatory requirements, any aggregate economic impact will not be significant. Accordingly, we believe that a full analysis under the Regulatory Flexibility Act is not necessary.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have determined that this technical rule will not significantly affect the rights, roles, or responsibilities of the States. This rule does not impose substantial direct requirement costs on State or local governments, preempt State law, or otherwise implicate Federalism.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 402

Administrative practice and procedure, Health facilities, Health professions, Medicaid, Medicare, Penalties.

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

For the reasons stated in the preamble, the Centers for Medicare and Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 402—CIVIL MONEY PENALTIES, ASSESSMENTS, AND EXCLUSIONS

A. Part 402 is amended as set forth below:

1. The authority citation for part 402 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

1. In § 402.1, the following changes are made:

A. Paragraph (c) introductory text is revised to read as set forth below.

B. Paragraph (c)(16) is revised to read as set forth below.

C. Paragraph (c)(29) introductory text is revised to read as set forth below.

D. Paragraphs (c)(31), (c)(32), and (c)(33) are added to read as set forth below.

E. Paragraph (d) introductory text is republished.

F. Paragraph (d)(2) is revised to read as set forth below.

G. Paragraph (e)(1) introductory text is republished.

H. Paragraph (e)(1)(ii) is revised to read as set forth below.

I. Paragraph (e)(1)(vii) is revised to read as set forth below.

§ 402.1 Basis and scope.

* * * * *

(c) *Civil money penalties.* CMS or OIG may impose civil money penalties against any person or other entity specified in paragraphs (c)(1) through (c)(33) of this section under the identified section of the Act. (The authorities that also permit imposition of an assessment or exclusion are noted in the applicable paragraphs.)

* * * * *

(16) Section 1842(p)(3)(A)—Any physician or practitioner who knowingly and willfully fails promptly to provide the appropriate diagnosis code or codes upon request by CMS or a carrier on any request for payment or bill not submitted on an assignment-related basis for any service furnished by the physician. (This violation, if it occurs in repeated cases, may also cause exclusion.)

* * * * *

(29) Section 1882(s)(4)—

* * * * *

(31) Sections 1834(k)(6) and 1842(j)(2)—Any person or entity who knowingly and willfully bills or collects for any outpatient therapy services or comprehensive outpatient rehabilitation services on other than an assignment-related basis. (This violation may also include an assessment and cause exclusion.)

(32) Sections 1834(l)(6) and 1842(j)(2)—Any supplier of ambulance services who knowingly and willfully bills or collects for any services on other than an assignment-related basis. (This violation may also include an assessment and cause exclusion.)

(33) Section 1806(b)(2)(B)—Any person who knowingly and willfully fails to furnish a beneficiary with an itemized statement of items or services within 30 days of the beneficiary's request.

(d) *Assessments.* CMS or OIG may impose assessments in addition to civil money penalties for violations of the following statutory sections:

* * * * *

(2) Section 1834: Paragraphs (a)(11)(A), (a)(18)(B), (b)(5)(C), (c)(4)(C), (h)(3), (j)(4), (k)(6), and (l)(6).

* * * * *

(e) *Exclusions.* (1) CMS or OIG may exclude any person from participation in the Medicare program on the basis of any of the following violations of the statute:

* * * * *

(ii) Section 1834: Paragraphs (a)(11)(A), (a)(18)(B), (b)(5)(C), (c)(4)(C), (h)(3), (j)(4), (k)(6), and (l)(6).

* * * * *

(vii) Section 1882: Paragraphs (a)(2), (p)(8), (p)(9)(C), (q)(5)(C), (r)(6)(A), (s)(4), and (t)(2).

* * * * *

3. In § 402.105, the following changes are made:

A. Paragraph (a) is revised to read as set forth below.

B. Paragraphs (d)(3) and (d)(4) are added to read as set forth below.

C. Paragraph (g) is added to read as set forth below.

§ 402.105 Amount of penalty.

(a) *$2,000.* Except as provided in paragraphs (b) through (g) of this section, CMS or OIG may impose a penalty of not more than $2,000 for each service, bill, or refusal to issue a timely refund that is subject to a determination under this part and for each incident involving the knowing, willful, and repeated failure of an entity furnishing a service to submit a properly completed claim form or to include on the claim form accurate information regarding the availability of other health insurance benefit plans (§ 402.1(c)(21)).

* * * * *

(d) * * *

(3) CMS or OIG may impose a penalty of not more than $10,000 for each violation, if a person or entity knowingly and willfully bills or collects for outpatient therapy or comprehensive rehabilitation services other than on an assignment-related basis.

(4) CMS or OIG may impose a penalty of not more than $10,000 for each violation, if a person or entity knowingly and willfully bills or collects for outpatient ambulance services other than on an assignment-related basis.

* * * * *

(g) *$100.* CMS or OIG may impose a penalty of not more than $100 for each violation if the person or entity does not furnish an itemized statement to a Medicare beneficiary within 30 days of the beneficiary's request.

4. In § 402.107, the introductory text to the section and paragraph (b) introductory text are republished, and

paragraph (b)(8) is revised to read as follows:

§ 402.107 Amount of assessment.

A person subject to civil money penalties specified in § 402.1(c) may be subject, in addition, to an assessment. An assessment is a monetary payment in lieu of damages sustained by HHS or a State agency.

* * * * *

(b) For the violations specified in this paragraph occurring after January 1, 1997, the assessment may not be more than three times the amount claimed for each service that was the basis for a civil money penalty. The violations are the following:

* * * * *

(8) Knowingly and willfully billing or collecting for any services on other than an assignment-related basis for a person or entity specified in sections 1834(k)(6), 1834(l)(6), or 1842(b)(18)(B) (§ 402.1(c)(11), (c)(31), or (c)(32)).

* * * * *

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart E—Criteria for Determining Reasonable Charges

B. Part 405, subpart E is amended as set forth below:

1. The authority citation for part 405, subpart E continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 405.520, paragraph (c) is revised to read as follows:

§ 405.520 Payment for a physician assistant's, nurse practitioner's, and clinical nurse specialist's services and services furnished incident to their professional services.

* * * * *

(c) *Civil money penalties.* Any person or entity who knowingly and willingly bills a Medicare beneficiary amounts in excess of the appropriate coinsurance and deductible is subject to a civil money penalty as described in §§ 402.1(c)(11), 402.105(d)(2)(viii), and 402.107(b)(8) of this chapter.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 19, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Dated: September 21, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–24326 Filed 9–27–01; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Hazard Mapping Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Executive Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have

federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Illinois:					
Cook (FEMA Docket No. D–7503).	Unincorporated Areas.	August 3, 2000, August 10, 2000, *Daily Southtown*.	Mr. John H. Stroger, President of the Cook County, Board of Commissioners, 118 North Clark Street, Room 537, Chicago, Illinois 60602.	November 7, 2000.	170054 F
Kane (FEMA Docket No. D–7503).	City of Geneva ..	August 8, 2000, August 15, 2000, *Kane County Chronicle*.	The Honorable Thomas Coughlin, Mayor of the City of Geneva, 22 South First Street, Geneva, Illinois 60134.	November 13, 2000.	170325 B
Madison (FEMA Docket No. D–7309).	Unincorporated Areas.	January 7, 2000, January 14, 2000, *The Intelligencer*.	Mr. Rudolph J. Papa, Madison County Board Chairman, Madison County Administration Building, 157 North Main Street, Suite 165, Edwardsville, Illinois 62025–1964.	December 28, 1999.	170436 D
St. Clair (FEMA Docket No. D–7509).	City of Mascoutah.	February 15, 2001, February 22, 2001, *Belleville News-Democrat*.	The Honorable Gerald Daugherty, Mayor of the City of Mascoutah, 3 West Main Street, Mascoutah, Illinois 62258.	May 24, 2001	170630
Cook (FEMA Docket No. D–7503).	Village of Orland Park.	August 3, 2000, August 10, 2000, *Daily Southtown*.	The Honorable Daniel J. McLaughlin, Mayor of the Village of Orland Park, 14700 South Ravinier Avenue, Orland Park, Illinois 60462.	November 7, 2000.	170140 F
Will (FEMA Docket No. D–7505).	Village of Plainfield.	October 25, 2000, November 1, 2000, *The Enterprise*.	Mr. Richard Rock, Village of Plainfield President, 530 West Lockport Street, Suite 206, Plainfield, Illinois 60544.	October 17, 2000.	170771 E
Indiana: Allen (FEMA Docket No. D–7503).	City of Fort Wayne.	July 12, 2000, July 19, 2000, *The Journal Gazette*.	The Honorable Graham Richard, Mayor of the City of Fort Wayne, 1 Main Street, Room 900, Fort Wayne, Indiana 46802–1804.	July 3, 2000	180003 D
Michigan:					
Macomb (FEMA Docket No. D–7309).	Township of Macomb.	January 4, 2000, January 11, 2000, *The Macomb Daily*.	Mr. John D. Brennan, Macomb Township Supervisor, 19925 Twenty-Three Mile Road, Macomb, Michigan 48042.	December 28, 1999.	260445 B
Macomb (FEMA Docket No. D–7507).	City of Sterling Heights.	June 14, 2000, June 21, 2000, *The Macomb Daily*.	The Honorable Richard J. Notte, Mayor of the City of Sterling Heights, 40555 Utica Road, P.O. Box 8009, Sterling Heights, Michigan 48311.	September 5, 2000.	260128 F
Ohio: Licking (FEMA Docket No. D–7509).	City of Newark ..	June 5, 2000, June 12, 2000, *The Advocate*.	The Honorable Frank L. Stare III, Mayor of the City of Newark, 40 West Main Street, Newark, Ohio 43055.	September 11, 2000.	390335 F

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–24347 Filed 9–27–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–D–7513]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Executive Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Alabama: Morgan ..	City of Decatur	May 29, 2001, June 5, 2001, *The Decatur Daily*.	The Honorable Julian Price, Mayor of the City of Decatur, P.O. Box 488, Decatur, Alabama 35602.	September 4, 2001.	010176
Connecticut: New Haven.	Town of Branford	June 11, 2001, June 18, 2001, *New Haven Register*.	Mr. Anthony Daros, Town of Branford First Selectman, Town Hall, P.O. Box 150, Branford, Connecticut 06405.	June 1, 2001	090073 C

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Florida:					
Charlotte	Unincorporated Areas.	July 2, 2001, July 9, 2001, *Charlotte Sun Herald*.	Mr. Jan Winters, Charlotte County Administrator, 18500 Murdock Circle, Room 536, Port Charlotte, Florida 33948–1094.	June 25, 2001	120061 D
Duval	City of Jacksonville.	August 1, 2001, August 8, 2001, *Financial News and Daily Record*.		November 7, 2001	120077 E
Seminole	Unincorporated Areas.	May 30, 2001, June 6, 2001, *Seninole Herald*.	Mr. Kevin Grace, Manager of Seminole County, 1101 East First Street, Sanford, Florida 32771.	May 23, 2001	120289 E
Georgia: Gwinnett	City of Suwanee	May 18, 2001, *Gwinnett Daily Post*.	The Honorable Nick Masino, Mayor of the City of Suwanee, 373 U.S. Highway, Suwanee, Georgia 30024.	June 18, 2001.	
Illinois:					
DuPage and Will.	Village of Bolingbrook.	July 6, 2001, July 13, 2001, *The Bolingbrook Sun*.	The Honorable Roger C. Claar, Mayor of the Village of Bolingbrook, 375 West Briarcliff Road, Bolingbrook, Illinois 60440–0951.	June 26, 2001	170812 F
Cook	Unincorporated Areas.	August 9, 2001, August 16, 2001, *Northbrook Star*.	Mr. John H. Stroger, Jr., President of the Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, Illinois 60602.	November 15, 2001.	170054 F
Williamson	City of Marion	July 30, 2001, August 6, 2001, *The Marion Daily Republican*.	The Honorable Robert Butler, Mayor of the City of Marion, City Hall, 1102 Tower Square Plaza, Marion, Illinois 62959.	November 5, 2001	170719 B
Cook	Village of Northbrook.	June 7, 2001, June 14, 2001, *Northbrook Star*.	Mr. Mark V. Damisch, Village of Northbrook President, 1225 Cedar Lane, Northbrook, Illinois 60062–4582.	June 1, 2001	170132 F
Will	Unincorporated Areas.	July 6, 2001, July 13, 2001, *Herald-News*.	Mr. Joseph Mikan, Will County Executive, 302 North Chicago Street, Joliet, Illinois 60432.	October 12, 2001	170695 F
Indiana:					
Allen	Unincorporated Areas.	July 19, 2001, *The Journal Gazette*.	Mr. Edwin J. Rousseau, President of the Allen County Board of Commissioners, 1 East Main Street, Room 200, City/County Building, Fort Wayne, Indiana 46802.	August 8, 2001	180302 E
Allen	City of Fort Wayne	July 19, 2001, *The Journal Gazette*.	The Honorable Graham Richard, Mayor of the City of Fort Wayne, 1 East Main Street, 9th Floor, City/County Building, Fort Wayne, Indiana 46802.	August 8, 2001	18003 E
Noble	Unincorporated Areas.	May 30, 2001, June 6, 2001, *The News-Sun*.	Mr. Mark Pankap, President of the Noble County Board of Commissioners, Noble County Courthouse, 101 North Orange Street, Albion, Indiana 46701.	September 5, 2001.	180183 A&B
Rush	Unincorporated Areas.	July 31, 2001, August 7, 2001, *Rushville Republican*.	Mr. Kenneth Brashaber, President of the Rush County Board of Commissioners, County Courthouse, 101 East Second Street, Rushville, Indiana 46173.	July 20, 2001	180421 B
Rush	City of Rushville	July 31, 2001, August 7, 2001, *Rushville Republican*.	The Honorable Robert M. Bridges, Mayor of the City of Rushville, Rushville City Hall, 133 West First Street, Rushville, Indiana 46173.	July 20, 2001	180223 B
Kentucky	Lexington-Fayette Urban County Government.	May 30, 2001, June 6, 2002, *Lexington Herald-Leader*.	The Honorable Pam Miller, Mayor of the Lexington-Fayette Urban County Government, 200 East Main Street, 12th Floor, Lexington-Fayette Government Building, Lexington, Kentucky 40507.	May 23, 2001	210067 C
Massachusetts: Middlesex.	Town of Pepperell	June 19, 2001, *The Lowell Sun*.	Mr. Scott Butcher, Town of Pepperell Chairman, 1 Main Street, Pepperell, Massachusetts 01463.	July 12, 2001	250210 C

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Michigan: Macomb	City of New Baltimore.	June 20, 2001, June 27, 2001, *The Bay Voice*.	The Honorable Joe Grajek, Mayor of the City of New Baltimore, City Hall, 36535 Green Street, New Baltimore, Michigan 48047.	June 8, 2001	260125 B
Mississippi: Madison.	City of Ridgeland	May 17, 2001, May 24, 2001, *Madison County Journal*.	The Honorable Gene F. McGee, Mayor of the City of Ridgeland, P.O. Box 217, Ridgeland, Mississippi 39158.	May 10, 2001	280110 D
New Hampshire:					
Sullivan	City of Claremont	July 23, 2001, July 30, 2001, *Eagle Times*.	Mr. Richard Hodgkinson, City Manager of Claremont, 58 Tremont Square, City Hall, Claremont, New Hampshire 03743.	July 11, 2001	330154 C
Hillsborough ...	Town of Hollis	June 19, 2001, June 26, 2001, *The Telegraph*.	Mr. Daniel McManus, Chairman of the Board of Selectmen, 7 Monument Square, Hollis, New Hampshire 03049.	September 25, 2001.	330091 B
New York:					
Chemung	Town of Big Flats	August 15, 2001, August 22, 2001, *Star Gazette*.	Mr. Merrill Lynn, Supervisor of the Town of Big Flats, P.O. Box 449, Big Flats, New York 14814–0449.	February 2, 2002	360148 E
Erie	Town of Cheektowaga.	July 19, 2001, July 26, 2001, *Cheektowaga Times*.	Mr. Dennis H. Gabryszak, Town of Cheektowaga, Supervisor, Town Hall, Broadway and Union Roads, Cheektowaga, New York 14227.	January 26, 2002	360231 E
North Carolina:					
Brunswick	Unincorporated Areas.	June 28, 2001, July 5, 2001, *Wilmington Morning Star*.	Mr. Marty Lawing, Brunswick County Manager, P.O. Box 249, 45 Courthouse Drive, Bolivia, North Carolina 28422.	October 4, 2001 ..	370295 C
Orange	Town of Carrboro	May 21, 2001, May 28, 2001, *Chapel Hill Herald*.	Mr. Robert W. Morgan, Manager of the Town of Carrboro, 301 West Main Street, Carrboro, North Carolina 27510.	August 27, 2001 ..	370275 C
Wake	Town of Cary	May 24, 2001, May 31, 2001, *The Cary News*.	The Honorable Glenn D. Lang, Mayor of the Town of Cary, P.O. Box 8005, Cary, North Carolina 27512.	August 29, 2001 ..	370238 E
Wake	Town of Garner ...	July 18, 2001, July 25, 2001, *The News and Observer*.	Ms. Mary Lou Rand, Town Manager, P.O. Box 446, 900 Seventh Avenue, Garner, North Carolina 27529.	July 11, 2001	370240 D
Wake	City of Raleigh	July 18, 2001, July 25, 2002, *The News and Observer*.	The Honorable Paul Y. Coble, Mayor of the City of Raleigh, P.O. Box 590, 222 West Hargett Street, Raleigh, North Carolina 27602.	July 11, 2001	370243 D
Wake	Unincorporated Areas.	July 18, 2001, July 25, 2001, *The News and Observer*.	Mr. David Cooke, Wake County Manager, Suite 1100, 337 South Salisbury Street, Raleigh, North Carolina 27602.	July 11, 2001	370368 D
Ohio:					
Fairfield, Franklin, and Delaware Counties.	City of Columbus	May 16, 2001, May 23, 2001, *Gahanna News*.	The Honorable Michael Coleman, May or of the City of Columbus, 90 West Board Street, Columbus, Ohio 43215.	August 22, 2001 ..	390170 G
Franklin	Unincorporated Areas.	May 16, 2001, May 23, 2001, *Gahanna News*.	Ms. Arlene Shoemaker, President of the Franklin County Board of Commissioners, 373 South High Street, 26th Floor, Columbus, Ohio 43215–6304.	August 22, 2001 ..	390167 G
Pennsylvania; Dauphin.	Township of East Hanover.	August 3, 2001, August 10, 2001, *Patriot News*.	Mr. George Rish, Township of Hanover Board of Supervisors, 80848 Jonestown Road, Grantville, Pennsylvania 17028.	November 9, 2001	420377 B
Puerto Rico	Commonwealth	August 3, 2001, August 10, 2001, *San Jaun Star*.	The Honorable Sila Maria Calderon, Governor of Puerto Rico, Post Office Box 9020082, La Fortaleza, San Juan, Puerto Rico 00902.	November 9, 2001	720000 B
South Carolina:					
Anderson	Unincorporated Areas.	June 20, 2001, June 27, 2001, *Anderson Independent*.	Mr. Joey Preston, Anderson County Administrator, 100 South Main Street, P.O. Box 8002, Anderson, South Carolina 29622.	September 26, 2001.	450013 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Richland	Unincorporated Areas.	June 28, 2001, July 5, 2001, *The State*.	Mr. T. Cary McSwain, Richland County Administrator, 2020 Hampton Street, P.O. Box 192, Columbia, South Carolina 29202.	June 21, 2001	450170 G
Tennessee: Wilson	City of Lebanon ...	June 21, 2001, June 28, 2001, *The Lebanon Democrat*.	The Honorable Don Fox, Mayor of the City of Lebanon, 200 Castle Heights Avenue North, Suite 100, Lebanon, Tennessee 37087–2845.	September 27, 2001.	470208 C
West Virginia: Upshur.	City of Buckhannon.	August 15, 2001, August 22, 2001, *Delta Record*.	The Honorable Nancy Shoebe, Acting Mayor of the City of Buckhannon, 70 East Main Street, Buckhannon, West Virginia 26201.	February 2, 2001	540199 B
Wisconsin: Sauk ...	Unincorporated Areas.	May 29, 2001, *News-Republic*.	Mr. Melvin Rose, Sauk County Board Chairperson, 505 Broadway Street, Room 140, Baraboo, Wisconsin 53913.	June 21, 2001	550391 D

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–24346 Filed 9–27–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
CONNECTICUT	
New Britain (City), Hartford County (FEMA Docket No. D–7508)	
Webster Brook:	
Approximately 500 feet downstream of corporate limits	*51
Approximately 170 feet upstream of New Britain Avenue	*66
Piper Brook:	
At downstream corporate limits	*80
Approximately 280 feet upstream of corporate limits	*80
Bass Brook:	
At downstream corporate limits	*87
Approximately 770 feet upstream of Lewis Road	*265
Batterson Park Pond Brook:	
At Alexander Road	*182
Approximately 275 feet upstream of Brittany Farms Road culverts	*207
Sandy Brook:	
At confluence with Bass Brook	*87
Approximately 575 feet upstream of Ella Grasso Boulevard	*130
Maps available for inspection at the New Britain City Hall, 27 West Main Street, New Britain, Connecticut.	
Newington (Town), Hartford County (FEMA Docket No. D–7508)	
Mill Brook:	
At the confluence with Piper Brook	*50
Approximately 380 feet upstream of dam with footbridge	*74
Schoolhouse Brook:	
Approximately 0.3 mile downstream of Wilson Avenue	*74
At Robbins Avenue	*81
Piper Brook:	
At the downstream corporate limits	*49
Approximately 350 feet upstream of confluence of Bass Brook	*79
Rock Hole Brook:	
Approximately 340 feet downstream of Stonehedge Drive	*51
Approximately 380 feet upstream of Willard Avenue	*89
Webster Brook:	
Approximately 0.54 mile downstream of Kelsey Street	*48
Approximately 0.52 mile upstream of railroad embankment	*74
Webster Brook Tributary:	
At the confluence with Webster Brook	*68
Approximately 1,300 feet upstream of Liberty Street	*71
Bass Brook:	
At confluence with Piper Brook	*79
Approximately 100 feet upstream of Route 9	*100
Maps available for inspection at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.	
GEORGIA	
Morgan County (Unincorporated Areas) (FEMA Docket No. D–7510)	
Apalachee River:	
Approximately 2.98 miles downstream of State Route 186	*574
Just downstream of State Route 186	*623
Maps available for inspection at the Morgan County Building Inspector's Office, 384 Hancock Street, Madison, Georgia.	
MASSACHUSETTS	
Northbridge (Town), Worcester County (FEMA Docket No. D–7508)	
Riverdale Mills Sluice Gates and Tail Race:	
Approximately 675 feet downstream of Riverdale Street	*256
Approximately 400 feet upstream of Riverdale Street	*260
Blackstone River:	
Approximately 25 feet downstream of Riverdale Street	*257
Approximately 0.9 mile upstream of Factory Bridge	*274
Maps available for inspection at the Northbridge Town Hall, Zoning Office, 7 Main Street, Whitinsville, Massachusetts.	
NEW HAMPSHIRE	
Nashua (City), Hillsborough County (FEMA Docket No. D–7506)	
Nashua River:	
At the downstream side of B&M Railroad Bridge	*114
Approximately 0.75 mile upstream of State Route 11	*176
Bartemus Brook:	
At confluence with Nashua River	*165
At upstream corporate limits	*166
Maps available for inspection at the Nashua City Hall, 229 Main Street, Nashua, New Hampshire.	
NEW JERSEY	
Bernards (Township), Somerset County (FEMA Docket No. D–7504)	
Passaic River:	
Approximately 1.6 miles downstream of Passaic Valley Road	*214
Approximately 100 feet downstream of the upstream corporate limits	*303
Dead River:	
At the downstream corporate limits	*214
Approximately 0.78 mile upstream of the downstream corporate limits	*216
Maps available for inspection at the Bernards Township Hall, Engineer's Office, 277 South Maple Avenue, Bernards, New Jersey.	
Warren (Township), Somerset County (FEMA Docket No. D–7506)	
Passaic River:	
Approximately 0.38 mile downstream of Hillcrest Road	*213
Approximately 3.45 miles upstream of Stirling Road	*214
Maps available for inspection at the Warren Township Hall, Engineer's Office, 46 Mountain Boulevard, Warren, New Jersey.	
NEW YORK	
Davenport (Town), Delaware County (FEMA Docket No. D–7508)	
Charlotte Creek:	
At the confluence with the Susquehanna River	*1,101
At upstream corporate limits	*1,327
Maps available for inspection at the Davenport Town Hall, Route 23, Davenport Center, New York.	
Evans (Town), Erie County (FEMA Docket No. D–7508)	
Reisch Creek:	
At the confluence with Lake Erie	*580
A point approximately 180 feet upstream of Revere Drive	*681
Lake Erie:	
Southwest corporate limits along Lake Erie	*580
Northeast corporate limits along Lake Erie	*581
Maps available for inspection at the Evans Town Hall, 8787 Erie Road, Angola, New York 14006–9600.	
Leray (Town), Jefferson County (FEMA Docket No. D–7508)	
Indian River:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 0.43 mile downstream of Joachim Road	*406
Approximately 1.48 miles upstream of Elm Ridge Road	*413
West Creek:	
At its confluence with Indian River	*410
Approximately 1.07 miles upstream of the confluence with Indian River	*410
Maps available for inspection at the Leray Town Hall, 8433 Willow Street, Evans Mills, New York 13637.	
TENNESSEE	
Adamsville (Town), McNairy County (FEMA Docket No. D–7510)	
Beason Creek:	
Approximately 725 feet downstream of the corporate limits	*452
Approximately 25 feet upstream of Lynn Street	*494
Beason Creek Tributary:	
At the confluence with Beason Creek	*468
Approximately 100 feet upstream of South Oak Street	*505
Snake Creek:	
Approximately 1,440 feet downstream of State Route 22	*402
Approximately 600 feet upstream of State Route 22	*402
Maps available for inspection at the Adamsville City Hall, 231 East Main Street, Adamsville, Tennessee.	
VERMONT	
Stowe (Town), Lamoille County (FEMA Docket No. D–7510)	
West Branch Little River:	
At confluence of East Branch Little River	*705
Approximately 100 feet upstream of State Route 108	*960
Little River:	
Approximately 630 feet upstream of Canoe Factory Dam	*688
At confluence of East Branch Little River	*705
East Branch Little River:	
At confluence with Little River	*705
Approximately 400 feet upstream of Cemetery Road	*708
Maps available for inspection at the Stowe Town Hall, 67 Main Street, Stowe, Vermont.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–24349 Filed 9–27–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 209

RIN 3067–AD06

Supplemental Property Acquisition and Elevation Assistance; Correction

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final Rule; Correction.

SUMMARY: We, FEMA, published a final rule on June 15, 2001, 66 FR 32666, that provides guidance on the administration of the Supplemental Property Acquisition and Assistance Program. In codifying that rule, some errors were found. This document corrects those errors.

EFFECTIVE DATE: August 14, 2001.

FOR FURTHER INFORMATION CONTACT: Michael S. Herman, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–4097, (Fax) 202–646–4536, or email: *michael.herman@fema.gov*

SUPPLEMENTARY INFORMATION: On June 15, 2001 we published a final rule, 44 CFR Part 209, 66 FR 32666, that provides guidance on the administration of the Supplemental Property Acquisition and Assistance Program. In codifying that rule, some errors were found. Neither the errors nor these corrections change the meaning of the rule. The errors consist of spacing errors, incorrect punctuation and numbering errors. This document corrects those errors.

In final rule FR Doc. 01–15053, published June 15, 2001 (66 FR 32666) make the following Corrections:

PART 209—[CORRECTED]

§ 209.2 [Corrected]

1. On page 32669, third column, in § 209.2, remove the semicolon in the definition of Principal residence.

§ 209.7 [Corrected]

2. On page 32671, first column, in § 209.7, correctly designate paragraph (d) as paragraph (b).

§ 209.8 [Corrected]

3. On page 32671, second column, in § 209.8(c)(8)(ii), third line, remove word ''and''.

4. On page 32672, first column, in § 209.8(c)(9)(xiii), last line, correct the period to read ''; and''.

5.On page 32672, first column, in § 209.8, correctly designate the second paragraph (c)(9) as paragraph (c)(10).

Dated: September 24, 2001.

Michael D. Brown,

General Counsel.

[FR Doc. 01–24332 Filed 9–27–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2151]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment,* 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications,* 8 FCC Rcd 4735 (1993).

DATES: Effective September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted September 5, 2001, and released September 14, 2001. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 270C and adding Channel 270C0 at Montgomery.

3. Section 73.202(b), the Table of FM Allotments under Alaska, is amended by removing Channel 273C and adding Channel 273C1 and by removing Channel 284C3 and adding Channel 284C1 at Fairbanks.

4. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 243C1 and adding Channel 243A at Julesburg.

5. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 292C3 and adding Channel 295C3 at Bloomfield.

6. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 293A and adding Channel 293C3 at Atlanta.

7. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 275C0 and adding Channel 275A at Imperial.

8. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 288A and adding Channel 287C3 at Levelland and by removing Channel 229A and adding Channel 230C3 at Uvalde.

9. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 277C3 and adding Channel 277C2 at Waterbury.

10. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by removing Channel 247C1 and adding Channel 244C2 at Casper, by removing Channel 244C3 and adding Channel 244C2 at Laramie,[1] and by removing Channel 299C and adding Channel 300C at Midwest.[2]

11. Section 73.202(b), the Table of FM Allotments under Guam, is amended by removing Channel 262C2 and adding Channel 262C1 at Agana.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–24137 Filed 9–27–01; 8:45 am]

BILLING CODE 6712–01–P

[1] Station KKRR, Laramie, Wyoming, was previously modified from Channel 244A to Channel 244C3. *See* 66 FR 20608, April 24, 2001.

[2] Station KRVK, Midwest, Wyoming, was previously modified from Channel 300A to Channel 299C. *See* 66 FR 20608, April 24, 2001.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–2145; MM Docket No. 01–134; RM–10137]

Television Broadcasting Services; Elk City, OK and Borger, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 31 from Elk City, Oklahoma to Borger, Texas, and modifies the authorization for Station KBCA to specify operation on Channel 31 at Borger in response to a petition filed by TV 31, L.L.C. *See* 66 FR 35767, July 9, 2001. The coordinates for Channel 31 at Borger are 35–41–56 and 100–53–34.

DATES: Effective October 29, 2001.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01–134, adopted September 5, 2001, and released September 14, 2001. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. 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.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under Oklahoma, is amended by removing Channel 31 at Elk City.

3. Section 73.606(b), the Table of TV Allotments under Texas, is amended by adding Borger, Channel 31.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–24138 Filed 9–27–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 179

[Docket No. RSPA–2001–9567 (HM–189R)]

RIN 2137–AD51

Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; correction.

SUMMARY: On Tuesday, August 28, 2001, RSPA published a final rule under Docket HM–189R which amended the Hazardous Materials Regulations (HMR) to correct inconsistencies in terminology and editorial errors to improve the clarity of the HMR. This final rule makes certain corrections to the August 28, 2001 final rule.

EFFECTIVE DATE: September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Gigi Corbin, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 2001, RSPA published a final rule under Docket HM–189R (66 FR 45376) to correct inconsistencies in terminology and minor editorial errors to improve the clarity of the HMR. This final rule makes minor corrections to the August 28, 2001 final rule, which was effective September 27, 2001.

Because the amendments do not impose new requirements, notice and public procedure are unnecessary. The following is a summarization of the corrections made under this final rule.

Summary of Changes

Part 173

In amendatory instruction 55, for the entry for § 173.133, we are removing the reference for paragraph (b)(1)(ii). In addition, we are adding new amendatory instruction 71a. to correct the formula in § 173.133, paragraph

(b)(1)(ii), by removing the acronym ''ml'' and adding the acronym ''mL'' in its place.

Part 179

In amendatory instruction 198, for the entry ''§ 179.220–24'' the word ''heading'' is removed.

Accordingly, in the final rule, FR Doc. 01–16660, published at 66 FR 45376, make the following corrections:

PART 173—[CORRECTED]

§ 173.133 [Corrected]

1. On page 45381, in column 1, in amendatory instruction 55, for the entry § 173.133, the paragraph reference ''(b)(1)(ii),'' is removed.

2. On page 45382, in column 1, a new amendatory instruction 71a. is added to read as follows:

71a. In § 173.133, in paragraph (b)(1)(ii), the formula is revised to read as follows:

§ 173.133 Assignment of packing group and hazard zones for Division 6.1 materials.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

$$V_i = P_i \times \frac{10^6}{101.3}\ \mathrm{mL/m^3}$$

* * * * *

PART 179—[CORRECTED]

§ 179.220–24 [Corrected]

3. On page 45390, in column 2, in amendatory instruction 198, for the entry ''179.220–24'' remove the word ''heading''.

Issued in Washington, DC, on September 21, 2001, under authority delegated in 49 CFR part 1.

Edward A. Brigham,

Acting Deputy Administrator.

[FR Doc. 01–24417 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 233, 235 and 236

[FRA Docket No. RSSI–1; Notice No. 2]

RIN 2130—AB06; 2130—AB05

Signal and Train Control; Miscellaneous Amendments

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final Rule.

SUMMARY: On May 30, 1996, FRA, by issuing an Interim Final Rule, amended FRA's signal system reporting requirements to reduce signal system reporting burdens on the rail industry. At that time FRA also amended its regulations governing applications for approval of discontinuance or material modification of a signal system and also consolidated certain pneumatic valve cleaning and testing intervals to eliminate overlapping and unnecessary test schedules. This document discusses comments received in response to the notice of Interim Final Rule and adopts the Interim Final Rule as a permanent final rule.

EFFECTIVE DATE: This regulation is effective September 28, 2001.

FOR FURTHER INFORMATION CONTACT: William Goodman, Staff Director, Signal and Train Control, Office of Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590 (telephone 202–493–6325), or Mark Tessler, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590 (telephone 202–493–6061).

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1996, FRA published an Interim Final Rule (61 FR 33871) in which the agency made minor changes in reporting requirements. FRA solicited comments on the interim final rule and stated that those comments would be considered in determining whether there would be a need to take further action to improve these regulations.

FRA received comments from three parties: the Brotherhood of Railroad Signalmen (BRS), Association of American Railroads (AAR); and Consolidated Rail Corporation (Conrail). All commenters were in general agreement that the regulatory changes were beneficial, however they provided various comments regarding certain provisions.

Section By Section Analysis

Section 233.9 Signal System Reporting Requirements

The Signal Systems Annual Report has historically been used to monitor changes in the types of signal systems installed on the nation' s railroads. Based on its regulatory review, FRA concluded that the signal system information base could be maintained while at the same time the reporting burden imposed on railroads could be reduced. FRA concluded that the information provided by this report does not need to be updated annually. FRA therefore amended this section to provide for filing of signal system reports every five years rather than on an annual basis, as was previously required. This more realistic time frame will reduce the reporting burden to the industry while maintaining an adequate information base. FRA also revised the information to be reported in order to reflect technological changes and FRA information needs. There was no opposition to this section.

Section 235.7 Changes Not Requiring Filing of Application

Section 235.7 specifies those modifications to railroad signal systems that can be made by a railroad without the necessity of filing an application for FRA approval. Section 235.7(c)(24) provides that it is not necessary to file an application for approval for the installation, relocation, or removal of signals, interlocked switches, derails, movable-point frogs, or electric locks in an existing system directly associated with the installation of new track; the elimination of existing track other than a second main track; the extension or shortening of a passing siding; elimination of second main track in certain stated circumstances or a line relocation. FRA added to this list of changes not requiring pre-approval from FRA the conversion of pole line circuits to electronic (coded) track circuits provided that the railroad gives notice and a profile plan of the change to the FRA regional office having jurisdiction over that territory at least 60 days in advance of the change. In addition, the amendment requires the railroad to also provide a copy of the notice and profile plan to representatives of employees responsible for maintenance, inspection and testing of the signal system under 49 CFR part 236.

The AAR, while it ''appreciates any efforts by government to reduce reporting burdens on railroads,'' questioned the wisdom of being required to provide a copy of the advance notice to representatives of employees responsible for maintenance, inspection and testing of the signal system. The industry trade association stated, ''since the union is only one of the several stakeholders in the signal system partnership, AAR questions the appropriateness of its being singled out for special treatment by FRA in the rule.''

FRA notes that no other stakeholder objected to this provision, nor did the AAR suggest that any specific stakeholder receive such notices. Signal maintainers on the line of railroad planning such work are in a perhaps unique position, with a valuable perspective to offer regarding the signal changes. Their involvement in signal

modification and discontinuance proceedings in the past has provided valuable insight to FRA—insights that FRA is not willing to lose in its effort to ease reporting burdens on railroads.

Conrail expressed the opinion that the changes to this section do not go far enough. Conrail states that: ''[p]ole line carrying signal control circuits can be replaced by a number of systems to carry vital signal information between locations. Such systems in use and being installed on Conrail today include: electronic track circuits carrying encoded information, conventional AC or DC coded track circuits, underground buried cable, and polar track circuits * * *.'' Conrail therefore asked that FRA amend the rule to provide relief from filing an application to re-space signals when open wire signal pole line is replaced with the noted systems, including ''future technologies performing the same function.'' FRA notes that the rule changes will not necessarily prevent railroad use of other systems to replace pole line, however, such replacement will continue to require FRA review and approval. FRA will continue to review the use of other systems and new technologies as they develop, and will amend its procedures when it can be assured that use of other systems can be implemented safely without the necessity of FRA review. Therefore, FRA is making no change to the rule.

Section 236.590 Pneumatic apparatus.

FRA amended 49 CFR 236.590 to provide that the inspection and cleaning time interval requirements for pneumatic apparatus (automatic train stop, automatic train control or automatic cab signal pneumatic apparatus) be governed by the air brake testing intervals established in 49 CFR 229.29 rather than the requirements of this section that required that inspection and cleaning at least once every 736 days. Although section 229.29 also requires a 736-day test interval, due to existing waivers, the testing and cleaning intervals for air brake systems and pneumatic systems on many locomotives do not coincide. By conforming the requirements of section 236.590 to those of 49 CFR 229.29, any changes in inspection and testing intervals or recordkeeping requirements made to air brake systems will automatically apply to pneumatic train control valves on similar types of locomotive.

In addition to the above changes, FRA also provided ''out of service'' credit that is applied to air brake systems under 49 CFR 229.33 to train control systems under 49 CFR 235.590. When a locomotive with automatic train stop, train control, or cab signal pneumatic apparatus receives out-of-use credit pursuant to § 229.33, the automatic train stop, train control, or cab signal apparatus must be tested in accordance with § 236.588 prior to the locomotive being placed in service. This further conforms the two sets of testing and maintenance requirements. All commenters supported this provision.

Executive Order 12866 and DOT Regulatory Policies and Procedures

These amendments have been evaluated in accordance with existing policies and procedures and because they are primarily technically oriented and generally reduce the regulatory burden on railroads, FRA has concluded that the revisions do not constitute significant rule under either Executive Order 12866 or DOT's regulatory policies and procedures.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. FRA certifies that this rule will not have a significant impact on a substantial number of small entities. There are no substantial economic impacts for small units of government, businesses, or other organizations.

Paperwork Reduction Act

These amendments reduce information collection requirements and therefore reduce reporting burdens imposed on railroads.

Environmental Impact

FRA has evaluated these regulations in accordance with its procedure for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related directives. FRA has determined that this final rule is not a major FRA action requiring the preparation of an environmental impact statement or environmental assessment.

Federalism

FRA believes it is in compliance with Executive Order 13132. This final rule will not have a substantial 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. This final rule will not have federalism implications that impose substantial direct compliance costs on State and local governments.

Environmental Impact

FRA has evaluated these regulations in accordance with its procedure for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act and related directives. FRA has determined that the amendment of Parts 233, 235 and 236 of Title 49 of the CFR does not constitute a major FRA action requiring an environmental assessment.

List of Subjects

49 CFR Part 233

Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 235

Administrative practice and procedure, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 236

Railroad safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, the interim final rule amending 49 CFR parts 233, 235, and 236 which was published at 61 FR 33871 on July 1, 1996, is adopted as a final rule without change.

Issued in Washington, DC on September 19, 2001.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 01–24243 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 234

[FRA Docket No. RSGC–5; Notice No. 9]

RIN 2130–AA97

Grade Crossing Signal System Safety

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final Rule.

SUMMARY: On June 20, 1996, FRA published Interim Final Rule Amendments amending the regulations on grade crossing signal system safety. That rule required that railroads comply with specific maintenance, inspection, and testing requirements for active highway-rail grade crossing warning systems. The rule also required that railroads take specific and timely

actions to protect the traveling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems. Aside from the typographical and minor corrections made today, the final rule issued today is identical to the Interim Final Rule Amendments published on June 20, 1996.

EFFECTIVE DATE: This final rule is effective on September 28, 2001.

FOR FURTHER INFORMATION CONTACT: William Goodman, Staff Director, Signal and Train Control, Office of Safety, FRA, 400 Seventh Street, S.W. Washington, D.C. 20590 (telephone 202–493–6325), or Mark Tessler, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590 (telephone 202–493–6061) (e-mail address: mark.tessler@fra.dot.gov).

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1994, FRA published a final rule (59 FR 50086) requiring that railroads comply with specific maintenance, inspection, and testing requirements for active highway-rail grade crossing warning systems. The final rule also requires that railroads take specific and timely actions to protect the traveling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems.

On June 20, 1996 FRA published an Interim Final Rule which amended the rule issued in 1994 (61 FR 31802). The Interim Final Rule addressed issues raised as a result of actual experience under the new regulations. In addition, shortly after the regulations were issued, an FRA Technical Resolution Committee (TRC) met to discuss the regulations, their interpretation and implementation. Included in the TRC were FRA signal and train control specialists from across the country along with headquarters staff. Representatives from rail labor and management were invited to attend certain sessions as non-voting members to offer their perspective and expertise to the group, together with representatives of two States active in FRA's State Participation Program. Although the purpose of this TRC was to develop the appropriate application and interpretation of the final rule, the discussion, together with other lessons learned during implementation, also indicated the need to clarify certain portions of the regulatory text. Additionally, the American Short Line Railroad Association, the Brotherhood of Railroad Signalmen, and the Association of American Railroads jointly filed a Petition for Reconsideration with FRA requesting that FRA stay enforcement of certain sections of the final rule (§§ 234.215 and 234.223) pending further consideration of those provisions. Subsequent to the joint filing, FRA issued an Interim Policy Manual addressing, among others, the issues and questions raised by the petitioners. FRA granted the petition for reconsideration although it did not agree to stay enforcement since enforcement issues had been addressed in the Interim Policy Manual. The Interim Final Rule was in part a response to the joint petition for reconsideration.

FRA received a number of comments on the Interim Final Rule. The following discussion addresses those comments.

The Brotherhood of Railroad Signalmen (BRS) pointed out typographical errors in §§ 234.215 and 234.247(b). Those errors are being corrected.

Section-By-Section Analysis

The majority of changes contained in the Interim Final Rule generated no comments. Accordingly, the following section-by-section analysis addresses only those sections about which comments were received.

Section 234.7 Accidents Involving Grade Crossing Signal Failure

The Illinois Department of Transportation suggested that the term ''activation failure'' in the first sentence of § 234.7(a) should be replaced with the term ''warning system malfunction'' which would then include partial activation and false activation as situations for which telephonic reports of accidents must be made. This section requires reports within 24 hours of occurrence of impact accidents involving activation failure. Because activation failures are much more likely to immediately result in accidents, FRA needs information regarding these malfunctions as soon as possible. Telephonic reports of accidents involving partial and false activations would not materially assist FRA in its safety function, while requiring such reports would place an undue administrative burden on the railroad. FRA will still receive information pertaining to partial activations and false activations in the normal course of accident reporting. This information, together with the record keeping requirements of § 234.109, will provide FRA sufficient information with which to monitor compliance with this part and grade crossing safety generally.

Section 234.9 Grade Crossing Signal System Failure Reports

The Illinois Department of Transportation recommends that the term ''activation failure'' be replaced in this section with the all encompassing term ''warning system malfunction''. This change would have the effect of requiring that partial activations and false activations be reported to FRA within 15 days of occurrence. This requirement would burden railroads with a reporting requirement while providing FRA with information not needed on such a short time frame. FRA's information requirements will be adequately served by the record keeping requirements of § 234.109. Under that section, records of partial activations and false activations will be available to FRA for a period of one year after the occurrence. The availability of those records will provide FRA with sufficient information for safety oversight. Therefore, the change suggested by the Illinois Department of Transportation's suggestion will not be adopted.

Section 234.217 Flashing Light Units

The Iowa Department of Transportation (Iowa DOT) recommended that the last sentence of paragraph (b) be amended. This paragraph presently states: ''Each flashing light unit shall be maintained to prevent dust and moisture from entering the interior of the unit. Roundels and reflectors shall be clean and in good condition.'' Iowa DOT suggests adding to the last sentence ''including the condition of the paint adequate to provide a contrasting dark background.''

We agree with the importance of maintaining conditions which ensure that the light unit maintain its visibility to the motorist. Essential to good visibility is the non-reflective black finish of the light hood and background surrounding the light. Maintaining a contrasting dark background contributes to the light's visibility. The present language of the rule is adequate to cover the situation in which the background or hood are in such a condition that the background does not provide sufficient contrast. FRA expects that the railroad responsible for maintenance of the crossing warning system will comply with § 234.207 which requires that ''when any essential component of a highway-rail grade crossing warning system fails to perform its intended function, the cause shall be determined and the faulty component adjusted, repaired, or replaced without undue delay.'' The railroad thus has the responsibility to repair or replace

backgrounds or hoods if they fail to perform their intended function—to provide adequate contrasting background in the case of the background, and to provide a non-reflective shade in the case of the hood. FRA expects that the railroad responsible for maintenance of the grade crossing warning system will comply with § 234.207 in these situations. FRA Signal and Train Control inspectors will be prepared to enforce this section accordingly.

Section 234.225 Activation of Warning System

The Illinois Department of Transportation recommended that language be added to the present regulatory section as follows: ''Where highway traffic signals and railroad warning signals are interconnected, additional warning time may be required to enable the traffic signals to clear the intersection and display a green signal for the track approach leg of the intersection. This time will vary depending on the length of storage distance between the tracks and the highway intersection.''

This important subject has been addressed by the Secretary of Transportation's Technical Working Group. The language proposed by the Illinois DOT is best approached as a general guideline to be used in certain situations rather than as a regulatory requirement. The Technical Working Group has recommended that practitioners, when planning and designing preemption systems, use guidance found in the Institute of Transportation Engineers (ITE) revised Recommended Practices (ITE Journal, February 1997) ''Design Guidelines for Railroad Preemption at Signalized Intersections.''

Section 234.245 Signs

One commenter suggested that this section require that signs ''shall reflect current site conditions.'' The content of signs mounted on grade crossing signal posts is not an appropriate matter for a rule dealing with maintenance, inspection and testing and is beyond the scope of this proceeding. The information needed to be conveyed on a signal post is dependent on a decision by the state or local transportation authority having jurisdiction over the highway crossing the railroad tracks and is subject to the requirements of the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD).

Section 234.247 Purpose of Inspections and Tests; Removal From Service of Relay or Device Failing To Meet Test Requirements

The BRS questioned whether a railroad has an obligation under § 234.247, to respond to reports of false activations while a track is out of service. A railroad would have an obligation to respond to any false activation reports since the motorist will be responding to the grade crossing warning system irrespective of the status of rail service. However, this section would not apply if the grade crossing warning system is temporarily taken out of service when the tracks over the grade crossing are taken out of service or when the railroad suspends operations during a portion of the year. Of course, a full inspection and all required tests must be successfully completed before railroad operations over the grade crossing resume. This section is being revised to eliminate the typographical error of in which the phrase ''or the railroad suspends operations during a portion of the year'' appeared twice in paragraph (b).

Section 234.261 Highway Traffic Signal Preemption

Iowa Department of Transportation suggests that this section be amended by adding the following paragraphs: ''(b) A tag or marking shall be affixed inside the control unit for any railroad signal which is interconnected with a highway traffic signal. In addition to the words **''WARNING, INTERCONNECTION WITH HIGHWAY TRAFFIC SIGNALS,''** the name, date and telephone number of the responsible highway authority shall be posted therein in a legible manner and be maintained current as of the date of the last contact with that authority. (c) The responsible highway authority shall be contacted immediately when any change is made in the crossing warning system that affects the operation of the highway traffic signal system.''

This concept has been addressed by the Secretary's Technical Working Group. A form similar to that suggested by Iowa DOT has been developed and is being distributed throughout the country for placement in both grade crossing signal cases and in highway traffic signal cases. The form states in part: ''Highway-Rail Grade Crossing Warning System and Highway Traffic Signals are Interconnected. **BEFORE MODIFICATION** is made to any operation which connects to or controls the timing of an active railroad warning system and/or timing and phasing of a traffic signal the appropriate party(ies) shall be notified and, if necessary, a joint inspection conducted.'' The form contains the U.S. DOT/AAR Crossing Number together with contact names and phone numbers for the appropriate highway agency and railroad. This voluntary approach has been working very well and there does not appear to be any need to regulate this issue.

Executive Order 12866 and DOT Regulatory Policies and Procedures

These amendments have been evaluated in accordance with existing policies and procedures. Because these amendments are primarily technically oriented and generally reduce the regulatory burden on railroads, FRA has concluded that this revisions do not constitute a significant rule under either Executive Order 12866 or DOT's regulatory policies and procedures.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. FRA certifies that this rule will not have a significant impact on a substantial number of small entities. There are no substantial economic impacts for small units of government, businesses, or other organizations.

Paperwork Reduction Act

These amendments to part 234 do not change any information collection requirements.

Environmental Impact

FRA has evaluated these regulations in accordance with its procedure for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related directives. FRA has determined that this final rule is not a major FRA action requiring the preparation of an environmental impact statement or environmental assessment.

Federalism

FRA believes it is in compliance with Executive Order 13132. This final rule will not have a substantial 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. This final rule will not have federalism implications that impose substantial direct compliance costs on State and local governments.

List of Subjects in 49 CFR Part 234

Highway safety, Railroad safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, the interim final rule revising 49 CFR part 234 which was published at 61 FR 31802 on June 20, 1996, is adopted as a final rule with the following changes:

PART 234—GRADE CROSSING SIGNAL SYSTEM SAFETY

1. The authority citation for part 234 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, and 49 CFR 1.49.

2. Revise § 234.215 to read as follows:

§ 234.215 Standby power system.

A standby source of power shall be provided with sufficient capacity to operate the warning system for a reasonable length of time during a period of primary power interruption. The designated capacity shall be specified on the plans required by § 234.201 of this part.

3. Revise § 234.247(b) to read as follows:

§ 234.247 Purpose of inspections and tests; removal from service of relay or device failing to meet test requirements.

* * * * *

(b) If a railroad elects not to comply with the requirements of §§ 234.249 through 234.271 because all tracks over the grade crossing are out of service or the railroad suspends operations during a portion of the year, and the grade crossing warning system is also temporarily taken out of service, a full inspection and all required tests must be successfully completed before railroad operations over the grade crossing resume.

* * * * *

Issued in Washington, D.C. on September 19, 2001.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 01–24242 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG02

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Astragalus holmgreniorum* (Holmgren milk-vetch) and *Astragalus ampullarioides* (Shivwits milk-vetch)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the Fish and Wildlife Service (Service), have determined endangered status under the Endangered Species Act (Act) of 1973, as amended, for two perennial herbs—*Astragalus holmgreniorum* (Holmgren milk-vetch) and *Astragalus ampullarioides* (Shivwits milk-vetch). Three small populations of *A. holmgreniorum* exist in Washington County, Utah, and adjacent Mohave County, Arizona. Five small populations of *A. ampullarioides* exist in Washington County, Utah. Significant portions of the habitat of both species are subject to disturbance from urban development, off-road vehicles (ORVs), grazing, displacement by exotic weeds, and mineral development. This determination that *A. holmgreniorum* and *A. ampullarioides* are endangered species implements the Federal protections provided by the Act for these plants.

DATES: Effective October 29, 2001.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lincoln Plaza, Suite 404, 145 East 1300 South, Salt Lake City, Utah 84115.

FOR FURTHER INFORMATION CONTACT: John L. England, Botanist, Utah Field Office, at the address listed above (telephone 801/524–5001).

SUPPLEMENTARY INFORMATION

Background

Astragalus holmgreniorum (Holmgren milk-vetch) was first collected as a scientific specimen in 1941 by Melvin Ogden. Rupert Barneby and Noel and Patricia Holmgren rediscovered the species in 1979. Barneby (1980) recognized the species as a unique taxon occurring in a localized area on the Arizona-Utah border, and named it for its co-discoverers. *Astragalus ampullarioides* (Shivwits milk-vetch) was first collected near Shem in Washington County, Utah, by Duane Atwood in 1976. The species was originally described by Stanley Welsh (1986) as a variety of *A. eremiticus*. Barneby (1989) questioned the taxonomic significance of the species and submerged *A. eremiticus* var. *ampullarioides* within typical *A. eremiticus*. Later research work by Harper and Van Buren (1998) and Stubben (1997) demonstrated significant genetic and ecological differences between typical *A. eremiticus* and *A. eremiticus* var. *ampullarioides*. Welsh (1998) revised the species' taxonomy elevating the taxon to full species status as *A. ampullarioides*. Both species are narrowly distributed Mojave Desert endemics restricted to the immediate vicinity of St. George, Utah.

A member of the pea family (Fabaceae), *Astragalus holmgreniorum* is a stemless herbaceous (non-woody) perennial that produces leaves and small purple flowers in the spring, both of which die back to its roots after the flowering season. The plant's pinnately compound leaves (leaves arranged on opposite side of the stem in a row) arise directly from the root crown. The leaves are pressed close to the ground, and are 4 to 13 centimeters (cm) (1.5 to 5.1 inches (in)) long, and have 9 to 15 leaflets. The leaflets are 0.8 to 1.6 cm (0.3 to 0.6 in) long and are broadly obovate (oval with the narrow end towards the base of the leaf) in shape. The flowers of *A. holmgreniorum* are 1.8 to 2.4 cm (0.7 to 0.9 in) long, and 0.6 to 0.9 cm (0.2 to 0.4 in) wide and have the distinctive papilionaceous flower shape of a legume (pea-like flower with five petals that include a large petal on top enclosing two lateral petals and two smaller lower petals). The flowers are borne in a raceme inflorescence (flowers occur along a stalk), commonly with 6 to 16 flowers. The peduncle (flower stalk) is 2 to 8.5 cm (0.8 to 3.6 in) long and arises directly from the root crown. The peduncle is erect during anthesis (period the flower is open) and is prostrate when the plant's in fruit (Barneby 1980; 1989; Welsh, et al. 1987; Stubben 1997). The fruits are pods 3 to 5 cm (1 to 2 in) long and 0.6 to 0.9 cm (0.2 to 0.4 in) across. The pods retain seeds even after the pods fully open up along the margin. With age, each pod eventually dries out and opens up at both the top and bottom ends (Barneby 1989; Stubben 1997).

Astragalus holmgreniorum grows on the shallow, sparsely vegetated soils derived primarily from the Virgin limestone member of the Moenkopi Formation. The species is a principal member of a warm-desert shrub

vegetative community dominated by the following perennial shrubs—*Acamptopappus sphaerocephalus* (desert goldenhead), *Ambrosia dumosa* (white burrobush), *Krameria parvifolia* (range ratany), and *Lycium andersonii* (Anderson wolfberry). In addition, plant species associated with *A. holmgreniorum* include several perennial and annual forbs and grasses; most significant are the introduced weedy species—*Bromus rubens* (foxtail brome), *Erodium cicutarium* (storksbill), and *Malcolmia africana* (African mustard) (Stubben 1997; Armstrong and Harper 1991; Van Buren 1992; Harper and Van Buren 1998, 2000b).

Only three populations of *Astragalus holmgreniorum* are known. The species primary population exists on the Arizona (Mohave County) and Utah (Washington County) border approximately 11 kilometers (km) (7 miles (mi)) south of the center of St. George, Utah (Stubben 1997). This population is fragmented by Interstate Highway 15, areas of urban development, and spotty natural habitat occurrences. The number of individual plants in all the species' populations varies considerably from year to year. This population averages about 9,000 to 10,000 plants in years with wet winters (Stubben 1997; R. Van Buren, Utah Valley State College, Orem, Utah, pers. comm. 1998). The second population is south of the town of Santa Clara about 8 km (5 mi) west of St. George. This population consists of 2 sites whose total numbers average about 1,000 individual plants (Stubben 1997; Van Buren 1992; R. Bolander, Bureau of Land Management, Salt Lake City, Utah, pers. comm. 2000). The third population consists of about 30 plants, and is located in Purgatory flat approximately 15 km (9 mi) east of St. George (Stubben 1997; R. Bolander, pers. comm. 2000). The small number of populations and restricted habitat of this species make it vulnerable to human-caused and natural environmental disturbances. Urban expansion of St. George and highway and power line construction have destroyed significant portions of the species' potential habitat and threaten additional occupied habitat. The species also is threatened by ORV use, displacement by exotic weeds, mineral exploration and development (Harper 1997, Stubben 1997, Van Buren and Harper 2000b).

Astragalus ampullarioides (Shivwits milk-vetch) is a perennial, herbaceous plant that is considered a tall member of the pea family, although some plants appear shorter because of grazing impacts. Stems may grow along the ground or to a height of 20 to 50 cm (8 to 20 in). However, ungrazed flowering stems may attain a height of 1 meter (40 in). Its leaves are pinnately compound, 4 to 18 cm (1.6 to 7.1 in) long, and have 11 to 23 elliptical leaflets. Each plant produces about 45 small cream-colored flowers about 2 cm (0.8 in) long on a single stalk in the spring. Seeds are produced in small pods, and the plant dies back to its root crown after the flowering season. The fruit is a short, broad pod between 0.8 and 1.5 cm (0.3 to 0.6 in) in length and 0.6 to 1.2 cm (0.2 to 0.5 in) in width (Barneby 1989; Welsh 1986, 1998; Welsh, et al. 1987).

Differences between *Astragalus ampullarioides* and typical *A. eremiticus,* which also is found in Washington County, Utah, are apparent from the following morphological and ecological characteristics—(1) *A. ampullarioides* has more flowers in each inflorescence, (2) *A. ampullarioides* has more elongated flower stalks, (3) *A. ampullarioides* has wider pods, (4) *A. ampullarioides* has taller plants, (5) *A. ampullarioides* has hollow stems, while *A. eremiticus* stems are solid, and (6) *A. ampullarioides* plants are highly palatable to grazing animals, while typical *A. eremiticus* is seldom if ever eaten (Barneby 1989; Welsh 1986, 1998; Welsh, et al. 1987; Van Buren 1992; Harper and Van Buren 1998). The variation between the two species also is apparent at the genetic level. The DNA analysis of *Astragalus* species have shown significant differences in genetic markers between *A. ampullarioides* and *A. eremiticus* (Stubben 1997).

Astragalus ampullarioides grows only on purple clay soils derived from the Petrified Forest member of the Chinle geological formation. The species is known from five separate sites in Washington County, Utah. These sites are distributed on a narrow band of the exposed Chinle formation over a distance of about 72 km (45 mi) near St. George, Utah. These 5 populations contain a total of approximately 1,000 individual plants (R. Van Buren, pers. comm. 1998, 2000). Two of the five populations occur near Shivwits on the western edge of the species range. One population occurs on the Shivwits Indian Reservation and contains about 50 individual plants (L. England, pers. comm. 1999); the other population occurs on Bureau of Land Management (BLM) land and contains about 135 individual plants (Utah Natural Heritage Program 1999). Two other populations occur near Harrisburg Junction on the eastern edge of the species range. One of these populations with 4 disjunct sites occurs on a mixture of State and BLM lands and contains about 300 individual plants (L. England, pers. comm. 1999, Utah Natural Heritage Program 1999, Van Buren, pers. comm. 2000). The second population in the Harrisburg area is located within a rapidly expanding commercial, recreational, and residential development. This population contained over 1,000 individuals in 1995 (England, pers. comm. 1995) and had declined to about 200 individual plants in 1998 (Utah Natural Heritage Program 1999). This population declined to less than 50 individuals in 2000 (England, pers. comm. 2000). Most of its habitat has been converted to a golf course. The fifth population occurs in the southwest corner of Zion National Park with a population estimated at 300 to 500 individuals (Harper, pers. comm. 2000; Van Buren, pers. comm. 2000). Native plant species normally associated with *A. ampullarioides* include *Dichlostemma pulchellum* (beautiful bluedicks), *Lotus humistratus* (birdsfoot trefoil), *Gutierrezia microcephala* (snakeweed), *Calochortus flexuosus* (mariposa lily), and several other Mojave Desert plants. Currently the most significant plant species associated with *A. ampullarioides* are the introduced weedy species *Bromus rubens* (foxtail brome), *B. tectorum* (cheat grass), *Erodium cicutarium* (storksbill), and *Malcolmia africana* (African mustard) (Armstrong and Harper 1991; Van Buren 1992, 1998; Harper and Van Buren 1998, 2000a).

Astragalus ampullarioides is threatened by the same activities as *A. holmgreniorum.* In addition, *A. ampullarioides* is heavily grazed by most wild and domestic herbivores, and one of its five populations is threatened by activities associated with clay quarry mining and unauthorized waste disposal (Harper 1997). *A. ampullarioides* is restricted to clay soils derived from outcrops of the Chinle formation, which naturally limits its potential habitat and population (Van Buren and Harper 2000a). The populations of both species fluctuate significantly year to year primarily due to extreme variations in local precipitation. The population numbers cited above reflect the highest levels observed since 1992; in an average precipitation year populations will be about half of that cited above, while drought-year population numbers will be 10 percent or less of the maximum observed levels (Van Buren and Harper 1998, 2000a; Van Buren 1999; R. Bolander, pers. comm. 2000; J. Anderson, Bureau of Land Management, Phoenix, Arizona, pers. comm. 2000).

Previous Federal Action

Section 12 of the Act (16 U.S.C. 1533 *et seq.*) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. We published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) announcing our decision to treat the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and our intention to review the status of those plants.

The July 1975 notice was updated by a notice in the **Federal Register** on December 15, 1980 (45 FR 82480). On November 28, 1983, we amended the 1980 notice (48 FR 53640) and added *Astragalus holmgreniorum* as a category 2 candidate species. Category 2 candidates were defined as taxa for which information indicated that proposing to list the taxa as endangered or threatened was possibly appropriate but substantial data on biological vulnerability and threats were not currently known or on file to support a listing proposal. A later Notice of Review published on February 21, 1990 (55 FR 6185), maintained *A. holmgreniorum* as a category 2 species and included *A. eremiticus* var. *ampullarioides* (a synonym of A. *ampullarioides*) as a category 2 species.

Based on new biological and threat information (Armstrong and Harper 1991; Van Buren 1992) we identified *Astragalus holmgreniorum* as a category 1 candidate in the 1993 plant Notice of Review (58 FR 51133). At that time, category 1 candidates comprised taxa for which we had significant biological information to propose the species as endangered or threatened.

In the February 28, 1996, Notice of Review (61 FR 7596), we ceased using the category designations for candidates and included both *Astragalus holmgreniorum* and *A. ampullarioides* (*A. eremiticus* var. *ampullarioides*) as candidate species. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list the species as threatened or endangered.

On June 2, 1999, we received a petition from Peter Galvin of the Southwest Center for Biological Diversity, Tucson, Arizona, to list both *Astragalus holmgreniorum* and *A. ampullarioides* as endangered species under the Act. The petition specified endangered status because of the rarity of the plants and the significant population and individual losses of both plants. The petition also requested designation of critical habitat concurrent with the listing. Inasmuch as *A. holmgreniorum* and *A. ampullarioides* are currently designated candidate species with assigned listing priorities of two and three, respectively, we consider them already under petition and covered by a warranted but precluded finding. We responded to this petition on June 14, 1999, notifying the petitioner that our Endangered Species Petition Management Guidance issued in July 1996 considers a petition for a candidate species as redundant, and as such will be treated as a second petition. We also notified the petitioner that preparation of a proposed rule for listing of *A. holmgreniorum* and *A. ampullarioides* was ongoing and would be published in the **Federal Register** in the near future.

On April 12, 2000, we published a proposed rule to list *Astragalus holmgreniorum* and *A. ampullarioides* as endangered species in the **Federal Register** (65 FR 19728). The comment period was open until June 12, 2000. With the publication of this final rule, we now determine that *A. holmgreniorum* and *A. ampullarioides* are endangered.

We have updated this rule to reflect any changes in distribution, status, and threats since publication of the proposed rule and to incorporate information obtained during the public comment period. This additional information did not alter our decision to list these species.

Summary of Comments and Recommendations

We have reviewed all written and oral comments received during the comment period and have incorporated updated data and information into appropriate sections of this rule. We have organized substantive comments concerning the proposed rule into specific issues. We grouped comments of a similar nature or subject matter into a number of broader issues. These issues and our response to each are presented in the subsections below.

In the April 12, 2000, proposed rule in the **Federal Register** (65 FR 19728) and associated notifications, we requested all interested parties to submit factual reports or information that might contribute to the development of a final rule. We contacted and requested comments from all appropriate Federal and State agencies, City and County governments, scientific organizations, and other interested parties. We published newspaper notices requesting public comment on the proposed rule in the following newspapers—the Salt Lake Tribune and the Deseret News, both published in Salt Lake City, Utah, with general circulation throughout Utah, on May 6, 2000; The Spectrum, published in St. George, Utah, with circulation in Washington County, Utah, on April 28, 2000; and The Kingman Daily Miner, published in Kingman, Arizona, with circulation in Mohave County, Arizona, on May 9, 2000. No public hearing requests were made pursuant to the April 12, 2000, proposed rule. However, at the invitation of the Shivwits Band of the Paiute Tribe, the Washington County Commission, and the St. George Area Chamber of Commerce, we met with those groups respectively on May 3, 2000, May 18, 2000, and June 7, 2000, and answered and addressed the questions and concerns of those groups concerning the impact of the proposed listing on regional land use and urban development plans in the St. George area.

We received a total of five comments (one from private organization, two from a Federal agency, one from a State agency, and one from a local government) during the proposed rule's open comment period from April 12, 2000 to June 12, 2000. Three comments were in general agreement with and supportive of our proposal. One of these provided additional information on the status of the species and made suggestions to clarify our proposed rule. One comment was a request for continued consultation on their actions affecting one of these species. One comment raised a series of issues related to the listing of *Astragalus holmgreniorum* and *A. ampullarioides* and is discussed below. A summary of comments received in response to the proposed rule follows.

Issue 1. Will actions affecting unoccupied potential habitat of *Astragalus holmgreniorum* and *A. ampullarioides* invoke the need for formal interagency consultation under the provisions of section 7 of the Act?

Response—We do not consult on projects that do not affect listed species or their critical habitat. We have not yet delineated critical habitat for *Astragalus holmgreniorum* and *A. ampullarioides.* Actions affecting only unoccupied, potential habitat for the species will not trigger formal consultation unless such areas are ultimately designated as critical habitat.

Issue 2. How will land exchanges for the Red Cliffs Desert Reserve (Mojave desert tortoise) impact these two species? Can BLM proceed with the exchanges? Is the land exchange subject

to formal consultation? Will the exchange be halted completely?

Response—The statement in the proposed rule concerning the impact of the Red Cliffs Desert Reserve on *Astragalus holmgreniorum* and *A. ampullarioides* referred to urban development in the local area in general. The presence of the tortoise reserve, established as the primary mitigation measure under the Washington County Habitat Conservation Plan, approved in 1996, will accelerate development in a southern direction from St. George and other surrounding cities. Thus, the reserve may hasten development in habitat occupied by both of these plant species. However, some land acquisition and protection associated with the reserve will improve recovery prospects for *A. ampullarioides.* Land exchanges are one mechanism used by the BLM to acquire tortoise habitat within the reserve. All administrative land exchanges are subject to section 7 interagency consultation under the Act. Land exchanges that could result in loss of habitat for either plant species will be evaluated, and neither the Service nor the BLM will approve any exchanges that jeopardize the future existence of either species. Currently, the BLM, as a matter of policy, does not exchange lands occupied by either *A. holmgreniorum* and *A. ampullarioides* for private or State lands within the boundaries of the Reserve. Land exchanges that do not adversely affect *A. holmgreniorum* and *A. ampullarioides* will proceed as normal.

Issue 3. Habitat conditions favorable to the growth of *Astragalus holmgreniorum* and *A. ampullarioides* are more widespread than the actual known populations. Listing should be delayed until the true extent of the populations is determined.

Response—There have been extensive surveys for both species within and far beyond their known habitat. While these species may occupy other currently unknown sites, it is unlikely that unknown sites would be of significant size to materially change the current status of either species.

Peer Review

In accordance with our policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we solicited the expert opinion of four appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the supportive biological and ecological information for *Astragalus holmgreniorum* and *A. ampullarioides.* The purpose of this review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analyses, including input from appropriate experts and specialists. Three specialists responded to our request for peer review of this listing action and supported the listing and our analysis of the biological and ecological situation facing these species. In addition, two reviewers provided additional biological, ecological, and demographic information concerning these species. That information was incorporated into this final rule.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Astragalus ampullarioides* (Welsh) Welsh (Shivwits milk-vetch) and *A. holmgreniorum* Barneby (Holmgren milk-vetch) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The entire population of *Astragalus holmgreniorum* and most of the population of *A. ampullarioides* are vulnerable to habitat loss and extirpation due to urban growth and development in the St. George area of Washington County, Utah. St. George is a rapidly growing city. The population of the St. George area has grown from about 48,000 in 1990 to over 75,000 in 1999, and is projected to double within the next 20 years. The construction of residential housing, commercial buildings, and recreational facilities has destroyed occupied and potential habitat of both species during the last 5 years (Harper 1997; Stubben 1997; R. Van Buren, pers. comm. 1998, 2000; K. Harper, pers. comm. 2000). The continued demand for land for urban expansion of Washington County communities threatens all populations of *A. holmgreniorum* and the central populations of *A. ampullarioides* (Harper 1997; Stubben 1997). Residential and commercial development, along with associated construction of new roads, highways, electric power transmission lines, pipelines, airports, residential and commercial buildings, recreational facilities such as golf courses, and maintenance of existing roads will encroach on and threaten the habitat of both species.

Habitat degradation from ORV use is increasing within both species' habitats. Both *Astragalus holmgreniorum* and *A. ampullarioides* are in the same general area as the listed plant species *Arctomecon humilis* (dwarf bear-poppy), which has been severely impacted by ORV use and urban development (Harper 1997; R. Van Buren, pers. comm. 1998). The Utah Army National Guard conducts military training on State of Utah lands within the occupied habitat of *A. holmgreniorum* between the current urbanized center of St. George and the Utah-Arizona border (D. Johnson, Utah Army National Guard, pers. comm. 2000). This activity has destroyed individual *A. holmgreniorum* plants and has degraded the species' habitat (Van Buren, pers. comm. 2000).

Conservation measures to protect the recently listed Mohave Desert tortoise (*Gopherus agassizii*) population from development may have caused a change in urbanization patterns that may lead to an increase in urban development and encroachment into the habitat of *Astragalus holmgreniorum* and *A. ampullarioides* (Stubben 1997; Harper 1997; D. Pietrzak, BLM, St. George, Utah, pers. comm. 1993). Patterns of urban, commercial, and residential expansion north of St. George City were affected by conservation efforts for the Desert tortoise including the Washington County Habitat Conservation Plan. Significant areas of potential community growth in the St. George area, especially between the city and the Arizona border, are within the occupied habitat of *A. holmgreniorum* and *A. ampullarioides.*

The presence of the tortoise reserve, established as the primary mitigation measure under the Washington County Habitat Conservation Plan approved in 1996, will accelerate development in a southern direction from St. George and other surrounding cities. Thus, the reserve may hasten development in habitat occupied by both plant species (E. Owens, U.S. Fish and Wildlife Service, Salt Lake City, Utah, pers. comm. 2000).

In Utah, occupied *Astragalus holmgreniorum* and *A. ampullarioides* habitat occurs on Federal (BLM), State of Utah, Tribal (Shivwits Band of the Paiute Tribe), and private land. In Arizona, *A. holmgreniorum* is restricted to State of Arizona lands immediately adjacent to the Utah border. Private and State lands may be subject to land use changes such as an increase in urban development. Federal lands with populations of *A. holmgreniorum* may

be subject to exchange or sale to the States or private parties. The State of Utah had proposed to the BLM to acquire lands that harbor the largest portion of the *A. holmgreniorum* population in exchange for occupied desert tortoise habitat north of St. George in Washington County (Stubben 1997; D. Pietrzak, pers. comm. 1993). A private land developer has proposed to develop much of the Utah portion of the *A. holmgreniorum* habitat for a planned residential community. A major highway is proposed for construction through the *A. holmgreniorum* habitat between St. George and the Arizona border. A proposed planned community development near Harrisburg Junction has significantly reduced and has the potential to destroy one of the two central *A. ampullarioides* populations (Rosenberg Associates 1999). Another planned community development near Atkinville has significantly impacted the main *A. holmgreniorum* population, and projected community development south of Santa Clara has the potential to significantly impact the species' northwestern population (R. Bolander, pers. comm. 2000). An electric power transmission line is proposed to pass through the two western *A. ampullarioides* populations. A second electric power transmission line is proposed to pass through its eastern population. Gypsum mining operations occur adjacent to occupied *A. holmgreniorum* habitat south of St. George. An existing clay pit now being used as an unauthorized waste disposal area occurs adjacent to occupied *A. ampullarioides* habitat east of St. George. Both of these mining-related activities have the potential to destroy both *A. holmgreniorum* and *A. ampullarioides* habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Astragalus holmgreniorum* and *A. ampullarioides* have no known commercial, recreational, or scientific use at this time. There is no evidence of over collection by botanists or horticulturists at this time.

C. *Disease or predation.* We have no information to indicate that diseases threaten the continued survival of either *Astragalus holmgreniorum* or *A. ampullarioides.*

Astragalus ampullarioides is extremely palatable to both wildlife and domestic livestock, but *A. holmgreniorum* is not. The two western *A. ampullarioides* populations currently are overgrazed, often to the point that reproduction is forgone due to the loss of the entire flower and fruit of virtually every plant in the population (Harper 1997, Harper and Van Buren 1998). In addition, overgrazing over a period of time can cause a shift in the plant communities to favor faster growing invasive alien plants, which has a negative effect on both *A. homgreniorum* and *A. ampullarioides.*

D. *The inadequacy of existing regulatory mechanisms.* No Federal or State laws or regulations directly protect *Astragalus holmgreniorum* and *A. ampullarioides* or their habitat. However, the BLM Manual 6840 states that ''The BLM shall carry out management, consistent with multiple use, for the conservation of candidate species and their habitats and shall ensure that actions authorized, funded, or carried out do not contribute to the need to list any of these species as Threatened or Endangered.'' The BLM has incorporated its intent to conserve these species into the ''Dixie Resource Area Proposed Management Plan and Final Environmental Impact Statement'' (Bureau of Land Management 1998). However, the location of these species in areas valued for future urban expansion makes the long-term security of their habitat, even on Federal lands, uncertain. There is no legal protection for either species on State of Arizona or State of Utah lands or on private property.

E. *Other natural or manmade factors affecting its continued existence.* Past habitat disturbance has caused the proliferation of introduced annual weeds into both species' occupied habitat (Harper 1997, Van Buren and Harper 2000a, 2000b). Foxtail brome, cheatgrass, storksbill, and African mustard are now the dominant species within the plant communities of both *Astragalus holmgreniorum* and *A. ampullarioides* (Stubben 1997; Harper and Van Buren 1998, 2000; Van Buren 1999). Both species are vulnerable to displacement by introduced weeds (Harper 1997; Harper and Van Buren 1998; Stubben 1997; Van Buren 1999). Concurrent with the establishment of these invasive species is further habitat modification and perhaps permanent change of the vegetative community caused by the introduction of fire into the Mojave Desert ecosystem. Cheatgrass and foxtail brome grow in densities and dry up sufficiently to carry fire over large areas. The native Mojave Desert vegetation is not adapted to a frequent fire regimen (R. Bolander, pers. comm. 2000).

Pollination of both *Astragalus holmgreniorum* and *A. ampullarioides* is a long-term concern. Both species are pollinated by native solitary ground-dwelling bees (V. Tepidendo, U.S. Agricultural Research Service, Bee Biology Laboratory, Utah State University, Logan, Utah pers. comm. 2000; R. Bolander, pers. comm. 2000). Fragmented, isolated populations restrict pollinator exchange between occupied population sites. This situation may cause genetic isolation, which may potentially lead to inbreeding and local extirpation of isolated populations. Urban expansion and associated impacts may directly and indirectly affect pollinators through loss of pollinator habitat and increased pesticide use (R. Bolander, pers. comm. 2000).

Any factor preventing seed set or seed germination, in addition to natural abiotic factors (i.e., precipitation and temperature), will adversely affect both species' viability (R. Bolander, pers. comm. 2000). These factors include reduced pollination and weed competition.

Both species exhibit varying high and low population counts. However, trend data show that, even with the highs, the general total populations are declining (R. Bolander, pers. comm. 2000). A long-term trend study indicates a significant reduction in the population numbers of *A. holmgreniorum* at the BLM's monitoring plot on state land in Arizona (J. Anderson, pers. comm. 2000). Both species are relatively short-lived (about 4 years for *A. holmgreniorum* and 6 years for *A. ampullarioides*) and depend on soil seed banks to maintain the long-term viability of their populations (R. Bolander pers. comm. 2000; K. Harper pers. comm. 2000, R. Van Buren pers. comm. 2000).

Because of the low numbers of individuals, low number of populations, and restricted habitats of both *Astragalus holmgreniorum* and *A. ampullarioides,* these plants are vulnerable to human disturbances, which may increase the negative impacts of natural disturbances to populations of these species. The numbers of individuals and populations are sufficiently low that future losses may result in the loss of population viability. The extremely small and disjunct populations of *A. ampullarioides* may be vulnerable to a loss of genetic viability (Harper 1997; Harper and Van Buren 1998).

We have carefully assessed the best scientific and commercial information available concerning the past, present, and future threats faced by these species in finalizing this rule. Threats to *Astragalus holmgreniorum* and *A. ampullarioides,* including development of land for residential and urban use, habitat modification from human disturbances, competition with non-native plant species, and impacts from mining and grazing, imperil the

continued existence of these species. Much of the habitat where these species occur is suitable for development and for modification by mining and grazing, and is unprotected from these threats. Because of the high potential of these threats to result in the extinction of both species, the preferred action is to list *A. holmgreniorum* and *A. ampullarioides* as endangered. The Act defines an endangered species as one in danger of extinction throughout all or a significant portion of its range. Endangered status reflects the vulnerability of these species to factors that may adversely affect these species and their extremely limited habitat.

Critical Habitat

Critical habitat is defined in section 3, paragraph (5)(A) of the Act as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection; and specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of section 4 of the Act, upon a determination by the Secretary that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Critical habitat designation directly affects only Federal agency actions through consultation under section 7(a)(2) of the Act. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat.

Section 4(a)(3) of the Act, as amended, and our implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

In the proposed rule, we indicated that designation of critical habitat was not prudent for *Astragalus holmgreniorum* and *A. ampullarioides* because of a concern that publication of precise maps and descriptions of critical habitat in the **Federal Register** could increase the vulnerability of these species to incidents of collection and vandalism. We also indicated that designation of critical habitat was not prudent because we believed it would not provide any additional benefit beyond that provided through listing as endangered.

In the last few years, a series of court decisions have overturned Service determinations that designation of critical habitat for a variety of species would not be prudent (e.g., *Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we have reexamined the question of whether critical habitat for *Astragalus holmgreniorum* and *A. ampullarioides* would be prudent.

As with other species we list, we have the concern that unrestricted collection, vandalism, or other disturbances could be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, we have examined the evidence available for *Astragalus holmgreniorum* and *A. ampullarioides* and have not found specific evidence of taking, vandalism, collection, or trade of these species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and recent case law, we do not expect that the identification of critical habitat will increase the degree of threat to these species of taking or other human activity.

In the absence of a finding that critical habitat would increase threats to these species, if any benefits would result from a critical habitat designation, then a prudent finding is warranted. In the case of both of these species, designation of critical habitat may provide some benefits. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by these species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat also would be likely to result in jeopardy to these species, in certain instances, section 7 consultation might be triggered only if critical habitat is designated. Examples could include some actions in unoccupied habitat or occupied habitat that may become unoccupied in the future. Designating critical habitat may provide some educational or informational benefits. Therefore, we find that critical habitat is prudent for both *Astragalus holmgreniorum* and *A. ampullarioides.*

As explained in detail in the Final Listing Priority Guidance for Fiscal Year 2000 (64 FR 57114), our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. We focus our efforts on those listing actions that provide the most conservation benefit. Deferral of the critical habitat designation for these species will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, without delaying the final listing decision for both *Astragalus holmgreniorum* and *A. ampullarioides.* We will develop a proposal to designate critical habitat for *Astragalus holmgreniorum* and *A. ampullarioides* as soon as feasible, considering our workload priorities and available funding. Unfortunately, for the immediate future, most of Region 6's listing budget must be directed to complying with numerous court orders and settlement agreements, as well as due and overdue final listing determinations.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing can encourage and result in public awareness and conservation actions by Federal, State, Tribal (Shivwits Band of the Paiute Tribe), and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Funding may be available through section 6 of the Act for the States to conduct recovery activities. The protection required by Federal agencies and prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or

designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(1) of the Act requires Federal agencies to use their authorities to further the purposes of the Act by carrying out programs for listed species. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its designated critical habitat. If a Federal action may affect a listed species or its designated critical habitat, the responsible Federal agency must enter into formal consultation with us.

Considerable portions of the habitat of both *Astragalus holmgreniorum* and *A. ampullarioides* are on lands under Federal jurisdiction managed by the BLM. The BLM is responsible for ensuring that all activities and actions on lands that they manage are not likely to jeopardize the continued existence of *A. holmgreniorum* and *A. ampullarioides.* Such activities include grazing, mining, and recreational management on Federal lands. Proposed highway and power line projects within the habitat of both species will require Federal permits from the Federal Highway Administration and Federal Energy Regulatory Commission. These agencies, also, must ensure that actions which they permit are not likely to jeopardize the continued existence of both species. In addition, sections 2(c)(1) and 7(a)(1) of the Act require Federal agencies to use their authorities in furtherance of the purposes of the Act to carry out conservation programs for endangered and threatened species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, will apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove these species from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, damaging, or destruction of such plants in knowing violation of any State law or regulation, or in the course of a violation of State criminal trespass law. Certain exceptions to the prohibitions apply to our agents and agents of State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered and threatened plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. We anticipate that few trade permits would be sought or issued for *Astragalus holmgreniorum* and *A. ampullarioides* because these species are not common in the wild and are unknown in cultivation.

It is our policy, published in the **Federal Register** (59 FR 34272) on July 1, 1994, to identify to the maximum extent practicable those activities that would or would not likely constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of the species' listing on proposed and ongoing activities within its range. Collection of listed plants or activities that would damage or destroy listed plants on Federal lands are prohibited without a Federal endangered species permit. Such activities on non-Federal lands would constitute a violation of section 9 of the Act if they were conducted in knowing violation of State law or regulation, or in the course of violation of State criminal trespass law. Otherwise, such activities would not constitute a violation of the Act on non-Federal lands. Conducting commerce with this species is also prohibited.

Questions regarding whether specific activities, such as changes in land use, constitute a violation of section 9 should be directed to the Utah Field Office (see **ADDRESSES** section). Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to—Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486.

National Environmental Policy Act

We have determined that an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any collections of information that require Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018–0094. This rule does not alter that information collection requirement. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.22.

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Author

The primary author of this proposed rule is John L. England (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

For the reasons given in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Special rule
Scientific name	Common name					
FLOWERING PLANTS						
*	*	*	*	*	*	*
Astragalus ampullarioides.	Shivwits milk-vetch	U.S.A. (UT)	Fabaceae	E	711	NA
*	*	*	*	*	*	*
Astragalus holmgreniorum.	Holmgren milk-vetch	U.S.A. (AZ, UT)	Fabaceae	E	711	NA
*	*	*	*	*	*	*

Dated: September 17, 2001.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 01–23821 Filed 9–27–01; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 66, No. 189
Friday, September 28, 2001

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV01–928–2 PR]

Papayas Grown in Hawaii: Reapportionment of Grower Membership on the Papaya Administrative Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would reapportion grower membership on the Papaya Administrative Committee (committee) due to shifts in papaya production. The committee locally administers the Hawaii papaya marketing order (order) which regulates the handling of papayas grown in Hawaii. The committee is comprised of 13 members of which 9 are growers, 3 are handlers, and 1 is a public member. Since 1994, District 1 has been represented by seven grower members, and Districts 2 and 3 have been represented by one grower member each. This rule would reapportion grower membership by decreasing the number of grower members representing District 1 to six members and increasing the number of grower members representing District 3 to two members.

DATES: Comments must be received by October 29, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: http://www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement No. 155 and Order No. 928, both as amended (7 CFR part 928), regulating the handling of papayas grown in Hawaii, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on the reapportionment of grower membership on the committee. This rule would increase the number of grower members from District 3 (the island and county of Oahu) by one member and reduce the number of grower members from District 1 (the island and county of Hawaii) by one member. Increased papaya production in District 3 and decreased production in District 1 have necessitated this proposed grower member reapportionment. While production in District 2 (the county of Kauai which consists of the islands of Kauai and Niihau; the county of Maui which consists of the islands of Maui, Molokai, Lanai, and Kahoolawe; and Kalawao County) also increased in recent years, the increase is not significant enough to qualify the district for increased grower membership.

Section 928.20 of the order provides for the establishment of the committee to locally administer the terms and provisions of the order. The committee is comprised of 13 members, each with an alternate. Of the 12 industry members, 9 are growers and 3 are handlers. This section also specifies how the grower membership on the committee is apportioned.

Section 928.31, paragraph (o), provides that the duties of the committee, with the approval of the Secretary, are to redefine the districts into which the production area is divided, to reapportion the grower member representation on the committee among the districts, to increase or decrease the number of grower and handler members and alternates on the committee, and to change the composition of the committee by changing the ratio between grower members and handler members, including their alternates. Paragraph (o) of § 928.31 further provides that any such changes shall reflect, insofar as practicable, structural

changes within the papaya industry and shifts in papaya production among the districts within the production area.

Based on this authority, § 932.120 of the order's administrative rules and regulations currently provides that seven grower members represent District 1, and one grower member each represents Districts 2 and 3. This apportionment became effective in 1994, when production in District 1 accounted for 52,525,000 pounds of fresh papayas, or 93 percent of the total annual production of fresh papayas of 56,200,000. At that time, production in District 2 accounted for 2,735,000 pounds or 5 percent of fresh papaya production. Fresh papaya production in District 3 accounted for 940,000 pounds or 2 percent of fresh papaya production in 1994.

However, papaya production in District 1 has been declining, in part due to the entrenchment of the Papaya Ringspot Virus (PRSV), a virulent and debilitating disease which reduces papaya production and eventually kills the papaya tree. Although papaya varieties which are immune to the virus have been developed and distributed to growers, the fresh production in recent years in District 1 has not reached the levels previously noted. In fact, production of fresh papayas in District 1 has decreased recently from the 1994 high. In the 1999 crop year, fresh papaya production in District 1 fell to 25,455,000 pounds, or 65 percent of the total fresh papaya production of 39,400,000 pounds. In the 2000 crop year, production of fresh papayas in District 1 increased somewhat to 33,950,000 pounds, but was still only 68 percent of the 2000 crop year total production of 50,250,000.

Production in District 2 where PRSV is not present, and District 3, where PRSV is present but carefully managed, increased significantly in 1999 and 2000. In the 1999 crop year, production of fresh papayas in District 2 increased to 5,680,000 pounds, or 14 percent of the 1999 total production of 39,400,000 pounds. This compares with only 5 percent of total production in 1994. Fresh papaya production in District 3 in 1999 increased to 21 percent of the 1999 total production, or 8,265,000 pounds.

Data from the 2000 season indicates that District 2 experienced a slight decrease in production while District 3 continued to experience increased fresh papaya production. During the 2000 crop year, fresh papaya production in District 2 declined to 4,785,000 pounds, or 9 percent of the total 2000 fresh papaya production of 50,250,000 pounds. At the same time, fresh papaya production in District 3 increased to 11,515,000 pounds, or 23 percent of the total 2000 crop year fresh papaya production of 50,250,000 pounds.

Table 1, below, identifies the shifts in fresh papaya production in recent years since 1994, and is based upon data provided by the National Agricultural Statistics Service (NASS).

TABLE 1.—HISTORY OF FRESH PRODUCTION: 1994, 1999, AND 2000 (PER NASS)

	1994	Percent	1999	Percent	2000	Percent
District 1	52,525,000	93	25,455,000	65	33,950,000	68
District 2	2,735,000	5	5,680,000	14	4,785,000	9
District 3	940,000	2	8,265,000	21	11,515,000	23
Total	56,200,000	.....	39,400,000	.....	50,250,000	.....

When reapportionment was recommended to the Secretary in 1994, the committee noted that the papaya industry has historically maintained equitable representation among handlers and growers. The committee has a duty to reapportion membership on the committee based upon shifts in production, as specified in § 928.31(o).

The current proposal, approved by a mail vote of the committee by an 8 to 5 vote, reflects the committee's prior history in recommending reapportionment of grower membership based upon shifts in fresh papaya production within the districts in recent years.

The recommended number of representatives per district is based upon the amount of fresh papaya production each district represents, as a percentage of total fresh papaya production (in million pounds). For example: In the 1999 crop year, District 1 represented 65 percent of the total fresh papaya production for that year. By multiplying 65 percent times the total of nine grower members, District 1 would be entitled to six (5.85 rounded to the nearest whole person) grower representatives. By the same method, District 2, with 14 percent of total fresh papaya production in 1999, multiplied by nine grower members, would be entitled to 1 (1.26 rounded to the nearest whole person) grower representatives. District 3, which had 21 percent of total fresh papaya production that year, multiplied by nine grower members, would be entitled to 2 (1.89 rounded to the nearest whole person) grower representatives.

In the 2000 crop year, District 1 with 68 percent of total fresh papaya production, multiplied by nine grower members, would be entitled to 6 (6.12 rounded to the nearest whole person) grower representatives; District 2, with 9 percent of total fresh papaya production, multiplied by nine grower members, would be entitled to 1 (.81 rounded to the nearest whole person) grower representatives; and District 3, with 23 percent of total fresh papaya production, multiplied by nine grower members, would be entitled to 2 (2.07 rounded to the nearest whole person) grower representatives.

Table 2, below, reflects the recommended reapportionment based upon percentages of total volume represented by each grower member for the 1999 and 2000 crop years.

TABLE 2.—REPRESENTATION BY DISTRICT BASED ON 1999 AND 2000 CROP YEAR STATISTICS

	Percentage of Fresh Production	X	Total Grower Members	=	Number of Grower Members/ District
1999 Crop Year:					
District 1	65%	.....	9	.....	5.85 (6)
District 2	14%	.....	9	.....	1.26 (1)

TABLE 2.—REPRESENTATION BY DISTRICT BASED ON 1999 AND 2000 CROP YEAR STATISTICS—Continued

	Percentage of Fresh Production	X	Total Grower Members	=	Number of Grower Members/ District
District 3	21%	.....	9	.....	1.89 (2)
2000 Crop Year:					
District 1	68%	.....	9	.....	6.12 (6)
District 2	9%	.....	9	.....	.81 (1)
District 3	23%	.....	9	.....	2.07 (2)

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 60 handlers of papayas in the production area and approximately 400 producers subject to regulation under the marketing order. Small agricultural service firms are defined as those whose annual receipts are less than $5,000,000, and small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000.

Based on a reported current average f.o.b. price of $.65 per pound of papayas, a handler would have to ship in excess of 7.69 million pounds of papayas to have annual receipts of $5,000,000. Based on a reported current average grower price of $0.25 per pound and average annual industry shipments of 40 million pounds since 1996, total grower revenues would be $10 million. Average annual grower revenue would, therefore, be $25,000. Thus, the majority of handlers and producers of papayas may be classified as small entities, excluding receipts from other sources.

This rule would reapportion grower membership on committee by decreasing the number of grower members who represent District 1 by one, and increasing the number of grower members who represent District 3 by one. Such reapportionment is authorized in § 928.31, paragraph (o) of the order. Section 928.120 of the order's administrative rules and regulations provides the current apportionment of grower and handler representation on the committee, as amended in 1994.

Shifts in production within the three districts have occurred in recent years, prompting a review by the committee, which culminated in this proposal recommended by the committee on a mail vote of 8 in favor and 5 opposed. The five members who opposed the recommendation represent District 1, but not all of the District 1 members opposed the recommendation. Two District 1 members joined the majority and voted in favor of the reapportionment.

As evidenced by the table presented earlier, fresh papaya production in District 1 has decreased since 1994 from 93 percent of total fresh papaya production to 68 percent of total fresh papaya production in 2000; and fresh papaya production in District 3 has increased since 1994 from 2 percent of fresh papaya production to 23 percent of total fresh papaya production in 2000. As a result of this shift in fresh papaya production, the committee recommended that grower membership on the committee be reduced by one grower member in District 1 and increased by one grower member in District 3.

This proposed rule is expected to provide more equitable representation on the committee that is more reflective of current production levels in the various production districts.

An alternative to this recommendation would be to make no changes in grower member representation. Such an alternative would be counterproductive in this instance, however, since the committee has the authority and duty to ensure equitable representation of growers and handlers based upon shifts in papaya production. The recommended reapportionment is supported by the NASS data on recent trends in fresh papaya production.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large entities. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

While the committee did not meet to discuss this issue in public, it is the Department's view that such reapportionment would be appropriate since NASS statistics provide adequate, third-party documentation of shifts in fresh papaya production. A mail vote was deemed acceptable in this matter since only one issue was brought to the committee for consideration. Had any of the committee members voting by mail requested an assembled meeting in which to vote on this issue, the committee would have convened such a meeting. In addition, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because current representation on the committee is not reflective of fresh papaya production in each district, and District 3 would be permitted another grower member position under this proposal. To ensure equitable grower member representation, this proposal should be in effect as soon as possible. It is important that the committee operate at full strength with the appropriate grower member representation. Any written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 928 is proposed to be amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 928.120 is revised to read as follows:

§ 928.120 Committee reapportionment.

The Papaya Administrative Committee shall consist of 13 members and alternate members. Nine of the members shall represent growers, and three shall represent handlers. Six grower members and their alternates shall represent District 1, one grower member and alternate shall represent District 2, and two grower members and alternates shall represent District 3. No grower organization shall have more than two members on the committee. The three handler members shall be nominated from the production area at large. No handler organization is permitted to have more than one handler member on the committee. One voting public member and alternate shall also be included on the committee. The eligibility requirements and nomination procedures for the public member and alternate are specified in § 928.122.

Dated: September 21, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–24316 Filed 9–27–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1033

[Docket No. AO–166–A68; DA–01–04]

Milk in the Mideast Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; Notice of public hearing on proposed rulemaking.

SUMMARY: A public hearing is being held to consider proposals that would amend certain pooling and related provisions of the Mideast order. Proposals include increasing the minimum route disposition requirements for distributing plants; amending the automatic pool plant qualification provision; decreasing the amount of producer milk that can be diverted to nonpool plants for varying months of the year; and increasing the minimum amount of milk that a producer needs to deliver to pool plants in order to qualify as a producer and to be eligible to be pooled on the order.

Additionally, other proposals which call for eliminating a provision that currently permits a pool plant to have both a pool and a nonpool portion; establishing a ''net shipment'provision for milk received at pool plants for determining pooling eligibility; and establishing the criteria for requiring a waiting period for a supply plant to regain pool status if it fails to meet the pooling requirements, will also be considered. A proposal that would change the rate of partial payments to producers will also be heard.

DATES: The hearing will convene at 8:30 a.m. on Tuesday, October 23, 2001.

ADDRESSES: The hearing will be held at the Holiday Inn Express Hotel and Suites/Galaxy Banquet Center, 231 Park Centre Dr., Wadsworth, OH 44281, (330) 334–7666.

FOR FURTHER INFORMATION CONTACT: Gino Tosi, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Programs, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1366, e-mail address Gino.Tosi@usda.gov.

Persons requiring a sign language interpreter or other special accommodations should contact David Z. Walker at 440–826–3220; email David.Walker@usda.gov before the hearing begins.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Notice is hereby given of a public hearing to be held at the Holiday Inn Express Hotel and Suites/Galaxy Banquet Center, 231 Park Centre Drive, Wadsworth, OH 44281, (330) 334–7666, beginning at 8:30 a.m., on Tuesday, October 23, 2001, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Mideast marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to any proposed amendments.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Act, a dairy farm is a ''small business'' if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The amendments to the rules proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the

district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with three (3) copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Part 1033

Milk marketing orders.

PART 1033—[AMENDED]

The authority citation for 7 CFR Part 1033 continues to read as follows:

Authority: 7 U.S.C. 601–674.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Submitted by: Dairy Farmers of America

Proposal No. 1

1. Amend § 1033.7 by revising paragraph (a), to read as follows:

§ 1033.7 Pool Plant.

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or § 1000.7(b) of any other Federal milk order, from which during the months of August through April are not less than forty percent, and during the months of May through July are not less than thirty-five percent or more of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least twenty-five percent of such route disposition and transfers must be to outlets in the marketing area.

* * * * *

Proposal No. 2

1. Amend § 1033.7 by removing paragraph (c)(1)(iv) and revising paragraph (c)(4) to read as follows:

§ 1033.7 Pool Plant.

* * * * *

(c) * * *

(4) Shipments used in determining qualifying percentages shall be milk transferred or diverted and physically received by distributing pool plants, less any transfers or diversions of bulk fluid milk products from such distributing pool plants.

* * * * *

Proposal No. 3

1. Amend § 1033.13 by redesignating paragraphs (d)(3) through (d)(6) as paragraphs (d)(4) through (d)(7), revising paragraphs (d)(2) and (d)(4), and adding a new paragraph (d)(3) to read as follows:

§ 1033.13 Producer Milk.

* * * * *

(d) * * *

(2) The equivalent of at least two day's production is caused by the handler to be physically received at a pool plant in each of the months of August through November;

(3) The equivalent of at least two day's production is caused by the handler to be physically received at a pool plant in each of the months of December through July if the requirement of § 1033.13(d)(2) for the prior August through November period are not met, except in the case of a dairy farmer who marketed no grade A milk during the prior August-November period.

(4) Of the total quantity of producer milk received during the month (including diversions but excluding the quantity of producer milk received from a handler described in § 1000.9(c)), the handler diverted to nonpool plants not more than sixty percent during the months of August through February, and seventy percent during the months of March through July.

* * * * *

Proposal No. 4

1. Amend § 1033.73 by revising paragraphs (a)(1), (b)(1), and (b)(2) to read as follows:

§ 1033.73 Payments to producers and to cooperative associations.

(a) * * *

(1) Partial Payment. For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month from the producer at not less than one hundred ten percent of the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer.

* * * * *

(b) * * *

(1) Partial Payment to a cooperative association. For bulk fluid milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the partial payment shall be equal to the hundredweight of milk received multiplied by not less than one hundred and ten percent of the lowest announced price of the preceding month.

(2) Partial payment to a cooperative association for milk transferred from its pool plant. For bulk fluid milk/skimmed milk products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at not less than one hundred and ten percent of the lowest announced price of the preceding month.

* * * * *

Proposal No. 5

1. Amend § 1033.7 by removing paragraph (h)(7).

Submitted by: Alto Dairy Cooperative

Proposal No. 6

1. Amend § 1033.13 by revising paragraph (d)(3) to read as follows:

§ 1033.13 Producer Milk

* * * * *

(d) * * *

(3) Of the total quantity of producer milk received during the month (including diversions but excluding the quantity of producer milk received from a handler described in § 1000.9 (c)), the handler diverted to nonpool plants not more than sixty percent during the months of September through February. The handler diverted to nonpool plants no more than seventy percent during the months of March through August.

* * * * *

Submitted by: Independent Dairy Producers of Akron

Proposal No. 7

1. Amend § 1033.13 by revising paragraphs (d)(2) and (d)(3) to read as follows:

§ 1033.13 Producer Milk

* * * * *

(d) * * *

(2) The equivalent of at least four day's production is physically received at the pooling plant from August to March.

(3) Of the quantity of producer milk physically received during the month, the handler diverted to nonpool milk not more than sixty percent during the months of August through March.

* * * * *

Submitted by: Dean Dairy Products Company, Schneider's Dairy, Inc., Turner Dairy Farms, Inc., Marburger Farm Dairy, Inc., Fike's Dairy, Inc., United Dairy, Inc., Carl Colteryahn Dairy, Inc., Smith Dairy Products Company, Superior Dairy, Goshen Dairy and Reiter Dairy

Proposal No. 8

Amend § 1033.7 by revising paragraph (c)(4) to read as follows:

§ 1033.7 Pool Plant

* * * * *

(c) * * *

(4) A supply plant that meets the shipping requirements of this paragraph during each of the immediately preceding months of August through February shall be a pool plant during the following months of March through July unless the milk received at the plant fails to meet the requirements of a duly constituted regulatory agency, the plant fails to meet a shipping requirement instituted pursuant to paragraph (g) of this section, or the plant operator requests nonpool status for the plant. Such nonpool status shall be effective on the first day of the month following the receipt of such request and thereafter for six consecutive months, after which the plant must requalify as a pool plant on the basis of its deliveries to a pool distributing plant(s). The automatic pool qualification of a plant can be waived if the handler or cooperative requests in writing to the market administrator the nonpool status of such plant. The request must be made prior to the beginning of any month during the March through July period. To requalify as a pool plant, such plant must first have met the percentage shipping requirements of paragraph (c) of this section for six consecutive months.

* * * * *

Proposal No. 9

1. Amend § 1033.13 by revising paragraph (d)(3) to read as follows:

§ 1033.13 Producer Milk

* * * * *

(d) * * *

(3) Of the quantity of producer milk physically received during the month, the handler diverted to nonpool plants not more than sixty percent during the months of August through February. Of the quantity of producer milk physically received during the month, the handler diverted to nonpool plants not more than eighty percent during the months of March through July.

* * * * *

Submitted by: Proposed by Dairy Programs, Agricultural Marketing Service

Proposal No. 10

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator of the Mideast Marketing Area or from the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Programs, Agricultural Marketing Service (Washington office) and the Office of the Market Administrator of the Mideast Market Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: September 21, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–24315 Filed 9–27–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–26]

Establishment of Class E Airspace; Fort Meade, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Tipton Airport (FME), Fort Meade, MD. The development of Standard Instrument Approach Procedures (SIAP) to serve flights operating into the airport during Instrument Flight Rules (IFR) conditions makes this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing an approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before October 29, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–26, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520. F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–26''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before

taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at Fort Meade, MD. The development of SIAP to serve flights operating into the airport during Instrument Flight Rules (IFR) conditions makes this action necessary. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is proposed to be amended as follows:

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

AEA MD E5 Fort Meade, MD [New]

Tipton Airport
(Lat. 39° 05′ 04″ N., long. 75° 45′ 20″ W.)

That airspace extending upward from 700 feet above the surface within a 6.2 mile radius of the Tipton Airport, Fort Meade, MD.

Issued in Jamaica, New York on September 3, 2001.

Richard J. Ducharme,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–23936 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–24]

Proposed Establishment of Class E Airspace; Beebe Memorial Hospital Heliport, Lewes, DE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Lewes, MD. The development of a Standard Instrument Approach Procedure (SIAP) based on Area Navigation (RNAV), Helicopter Point in Space approach at Beebe Memorial Hospital Heliport, Lewes, MD has made this proposal necessary. Sufficient controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing an instrument approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before October 29, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–24, Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–24'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the

closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at Beebe Memorial Hospital Heliport. Class E airspace designations for 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. Class E airspace designation listed in this document would be published subsequently in the Order.

The Rule

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''Significant regulatory action'' under Executive Order 12866 (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only afffect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA DE E5, Lewes, DE [New]

Beebe Memorial Hospital Heliport
(Lat 38°46′17″N.; long 75°08′42″W.)
Point in Space Coordinates
(Lat 38°46′14″N.; long 75°12′05″W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the point in space for the SIAP to the Beebe Memorial Hosptial Heliport, Lewes, DE

Issued in Jamaica, New York on September 13, 2001.

Richard J. Ducharme,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–23940 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–25]

Proposed Establishment of Class E Airspace; EWT 4 Heliport, Honey Grove, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Honey Grove, PA. The development of a Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS), Helicopter Point in Space Approach at EWT 4 Heliport, Honey Grove, PA has made this proposal necessary. Sufficient controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing an instrument approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before October 29, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–25, Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809. An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace specialist, Airspace Branch, AEA–520 Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–25''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the docket of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at EWT 4 Heliport. Class E airspace designations for 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA PA E5, Honey Grove, PA [New]

EWT 4 Heliport
(Lat 40°24′13″ N.; long 77°33′24″ W.)
Point in Space Coordinates
(Lat 40°22′27″ N.; long 77°37′44″ W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the point in space for the SIAP to the EWT 4 Heliport.

Issued in Jamaica, New York on September 10, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–23943 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 010712175–1175–01]

RIN 0648–XA71

Fair Market Value for a Submarine Cable Permit in National Marine Sanctuaries

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Extension of public comment period.

SUMMARY: Pursuant to public request, NOAA is extending by 15 days the comment period on the draft report ''Fair Market Value for a Submarine Cable Permit in National Marine Sanctuaries,'' published on August 17, 2001, 66 FR 43135.

DATES: Comments must be now received by October 16, 2001.

ADDRESSES: Address all comments regarding this notice to Helen Golde, Chief, Conservation Policy and Planning Branch, Office of National Marine Sanctuaries, 1305 East-West Highway, 11th Floor, Silver Spring, MD 20910, Attention: Fair Market Value Analysis. Comments may also be submitted by email to: submarine.cables@noaa.gov, subject line ''Fair Market Value Analysis.'' The report is available for download at *http://www.sanctuaries.nos.noaa.gov* or by requesting an electronic or hard copy. Requests can be made by sending an email to submarine.cables@noaa.gov (subject line ''Request for Fair Market Value Analysis'') or by calling Matt Brookhart at the number below.

FOR FURTHER INFORMATION CONTACT: Matt Brookhart, (301) 713–3125, x140.

SUPPLEMENTARY INFORMATION: On August 17, 2001, NOAA published a Notice of Availability (66 Federal Register 43135) and reopening of opportunity to comment on the draft report ''Fair Market Value for a Submarine Cable Permit in National Marine Sanctuaries.'' In response to several requests from the public, NOAA is extending the existing 45 day public comment period by 15 days. Therefore, comments on the analysis must now be received by October 16, 2001.

Dated: September 21, 2001.

Jamison S. Hawkins,

Deputy Assistant Administrator.

[FR Doc. 01–24345 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1, 5c, 5f, 18, and 301

[REG–106917–99]

RIN 1545–AX15

Changes In Accounting Periods; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under sections 441, 442, 706, 898, and 1378 of the Internal Revenue Code of 1986 that relate to certain adoptions, changes, and retentions of annual accounting periods.

DATES: The public hearing originally scheduled for October 2, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Treena Garrett of the Regulations Unit, Associate Chief Counsel (Income Tax

and Accounting), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on June 13, 2001, (66 FR 31850), announced that a public hearing was scheduled for October 2, 2001, at 10 a.m., in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under sections 441, 442, 706, 898, and 1378 of the Internal Revenue Code. The public comment period for these proposed regulations expired on September 11, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of September 24, 2001, no one has requested to speak. Therefore, the public hearing scheduled for October 2, 2001, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).

[FR Doc. 01–24258 Filed 9–27–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[VT–021–1224; A–1–FRL–7069–6]

Full Approval of Clean Air Act Operating Permit Program; State of Vermont

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to fully approve the operating permit program for the State of Vermont. Vermont's operating permit program was created to meet the federal Clean Air Act (Act) directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources of air pollution and to certain other sources within the states' jurisdiction. EPA is proposing to approve Vermont's program at the same time Vermont is proposing changes to its state regulations to address EPA's interim approval issues. The public comment period for Vermont's program regulations (Air Pollution Control Regulations, Subchapter X) is open for comment from September 13, 2001 until October 15, 2001.

DATES: Comments on this federal proposed rule must be received on or before October 29, 2001.

ADDRESSES: Comments may be mailed to Donald Dahl, Air Permits 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. EPA strongly recommends that any comments should also be sent to Conrad W. Smith of the Air Pollution Control Division, Department of Environmental Conservation, 2nd floor, South Building, Waterbury, Vermont, 05671–0402. 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 above addresses.

FOR FURTHER INFORMATION CONTACT: Donald Dahl at (617) 918–1657.

SUPPLEMENTARY INFORMATION:

I. Why Was Vermont Required To Develop an Operating Permit Program?

Title V of the Clean Air Act as amended (42 U.S.C. 7401 and 7661, et seq.), requires all states to develop an operating permit program and submit it to EPA for approval. EPA has promulgated rules that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permit programs. See 57 FR 32250 (July 21, 1992). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V directs states to develop programs for issuing operating permits to all major stationary sources and to certain other sources. The Act directs states to submit their operating permit programs to EPA by November 15, 1993, and requires that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. 7661a) and the part 70 regulations, which together outline criteria for approval or disapproval.

Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval. EPA granted the State of Vermont final interim approval of its program on October 2, 1996 (see 61 FR 51368) and the program became effective on November 1, 1996.

II. What Did Vermont Submit to Meet the Title V Requirements?

Vermont submitted its Title V operating permit program on April 28, 1995. In addition to regulations (Environmental Protection Regulations, Air Pollution Control Chapter V, Definitions and Subchapter X), the program submittal included a legal opinion from the Attorney General of Vermont stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, and a description of how the State would implement the program. The submittal additionally contained evidence of proper adoption of the program regulations, application and permit forms, and a permit fee demonstration. This program, including the operating permit regulations, substantially met the requirements of part 70.

III. What Was EPA's Action on Vermont's 1995 Submittal?

EPA deemed the program administratively complete in a letter to the state dated June 12, 1995. On May 24, 1996, EPA proposed to grant interim approval to Vermont's submittal. After responding to comments, EPA granted interim approval to Vermont's submittal on October 2, 1996. In the document granting interim approval, EPA stated that there were several areas of Vermont's program regulations that would need to be amended in order for EPA to fully approve the state's program. EPA has been working closely with the state and has determined that the state is proposing to make all of the necessary rule changes for full approval. The following section contains details regarding the areas of Vermont's regulations where the state is proposing to address EPA's interim approval issues.

IV. What Were EPA's Interim Approval Issues and How Has Vermont Proposed To Amend Its Regulation To Address the Interim Approval Issues?

1. 40 CFR 70.4(b)(12)(i) requires states to allow for facilities to make changes as required by section 502(b)(10) of the Act, ''Section 502(b)(10) changes'' as defined in part 70, with just a seven day notice. Subchapter X, section 5–1014 of the state's proposed rule has been amended to allow a facility to make changes that are equivalent to ''502(b)(10) changes'' after a fifteen-day notice. Vermont's regulations satisfy the requirements of Title V regarding ''section 502(b)(10) changes.''

2. 40 CFR 70.4(b)(12)(iii) requires states to allow facilities to trade emissions under an emission cap

established solely within a permit, provided the emissions are quantifiable and there are replicable procedures to enforce the emission trades. Subchapter X, sections 5–1014 and 5–1015(a)(15) of the state's proposed rule have been amended to require the state to grant emission trades that meet these requirements. Any emissions involved in such a trade are now required to be quantifiable, with replicable procedures to enforce the trade.

3. 40 CFR 70.6(a)(3)(iii)(B) requires a state to write a source's obligation in every permit to promptly report all permit deviations. The state's permitting rule or each permit itself must also define what is ''prompt reporting.'' Subchapter X, section 5–1015(a)(6) of the state's proposed rule requires Vermont to include a permit condition that mandates sources to promptly report all permit deviations. This proposed section of the rule also requires Vermont to define ''prompt'' in each permit and provides that such reporting shall be at least as stringent as required by EPA in permits issued under 40 CFR part 71.

4. 40 CFR 70.6(a)(9)(i) requires all permits to contain a condition that a source maintain a record when switching between operating scenarios. Subchapter X, section 5–1015(a)(8) of the state's proposed rule requires Vermont to include a permit condition that specifies a source must maintain records of switches between operating scenarios.

5. 40 CFR 70.6(b)(2) requires a state to designate those permit terms which are enforceable only by the State and are not enforceable under federal law. Subchapter X, section 5–1015(a)(9) of the state's proposed rule requires Vermont to designate in the Findings of Fact section of each permit all terms and conditions of a permit that are not federally enforceable. The Findings of Fact section accompanies each permit and makes the distinction required under section 70.6(b)(2) available to the public and the permittee.

6. 40 CFR 70.6(a)(1)(i) requires a state to indicate in a Title V permit the origin and authority of all permit terms and conditions, and identify any difference in form as compared to the applicable requirement upon which a permit term or condition is based. Subchapter X, section 5–1015(a)(2) of the state's proposed rule requires Vermont to list ''[a] reference, but not necessarily all references of the origin and authority for each term or condition.'' The state's proposed language, although it does appear to anticipate less than all references will be included in some circumstances, is adequate to meet this program element. Vermont has bound itself to provide a sufficient identification of the origin and authority of permit terms.

7. 40 CFR 70.7(f) requires each permit to contain provisions specifying the conditions when a permit must be reopened and revised. Subchapter X, section 5–1015(a)(13) of the state's proposed rule requires the state to write a permit condition stating when a permit may be reopened and reissued in accordance with section 5–1008 of the proposed rule. Subchapter X, section 5–1008(e)(1) of the proposed rule requires that the state must reopen and reissue permits under certain circumstances. EPA understands that the combination of these provisions has the effect of requiring the reopening of any permit for which cause to reopen exists under section 5–1008(e)(1). The permissive language used in section 5–1015(a)(13) simply incorporates and does not change the mandate in section 5–1008(e)(1) to reopen a permit for cause when necessary. Provided Vermont does not disagree with this interpretation, these two provision of the state's rule are now consistent with federal requirements.

8. 40 CFR 70.7(f)(1)(i) requires a state to reopen and reissues a permit within 18 months of a source's becoming subject to an additional applicable requirement if there are 3 or more years remaining in the permit term. Subchapter X, section 5–1008(e)(1)(i) of the state's proposed rule requires the state to reopen and reissue a permit under such circumstances.

V. Proposed Action

EPA proposes to fully approve Vermont's Title V program, provided the state finalizes its regulations consistent with the terms and interpretations of this proposed rule and submits its regulations to EPA for approval.

VI. 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 currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs, provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects in 40 CFR Part 70

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

Dated: September 19, 2001.

Robert W. Varney,

Regional Administrator, EPA-New England.

[FR Doc. 01–24381 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–7065–8]

Clean Air Act Final Approval of Operating Permits Program; Commonwealth of Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes full approval of the Clean Air Act operating permit program submitted by the Commonwealth of Massachusetts. In the Final Rules Section of this **Federal Register**, EPA is approving the Massachusetts 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.

DATES: Comments must be received on or before October 29, 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 19, 2001.

Robert W. Varney,

Regional Administrator, EPA—New England.

[FR Doc. 01–24065 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7512]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under

Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

AUTHORITY: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
Alabama	Baldwin County (Unincorporated Areas).	Fish River	Approximately 420 feet upstream of Threemile Creek.	◆105	◆104
			At the upstream side of U.S. Route 51 (State Highway 59).	None	◆196
		Perone Branch	At confluence with Fish River	◆35	◆34
			At State Highway 59	None	◆145
		Styx River	At confluence with Perdido River	◆6	◆9
			At Brady Road (Truck Route 17)	None	◆77
Maps available for inspection at the Baldwin County Building Department, 201 East Section Street, Bay Minette, Alabama.					
Send comments to Mr. Joe Faust, Chairman of the Baldwin County Commission, P.O. Box 1488, Bay Minette, Alabama 36507.					
Alabama	Bay Minette (City), Baldwin County.	McCurtin Creek Tributary	Approximately 1,725 feet upstream of Rock Hill Road.	None	◆216
			At dam	None	◆221
Maps available for inspection at the City Hall, 301 D'Olive Street, Bay Minette, Alabama.					
Send comments to The Honorable Sonny Dobbins, Mayor of the City of Bay Minette, P.O. Box 1208, Bay Minette, Alabama 36507.					
Alabama	Daphne (City), Baldwin County.	D'Olive Creek	At the confluence with D'Olive Bay	◆12	◆13
			Approximately 100 feet downstream of Lake Forest Dam.	◆12	◆13
		Mobile Bay	Approximately 2,500 feet west of the intersection of Main Street and Bel Air Drive.	◆17	◆19
			At the intersection of Oak Bluff Drive and Maxwell Avenue.	None	◆13
Maps available for inspection at the Building Inspector's Office, 1705 Main Street, Daphne, Alabama.					
Send comments to The Honorable E. Harry Brown, Mayor of the City of Daphne, P.O. Drawer 400, Daphne, Alabama 36526.					
Alabama	Fairhope (City), Baldwin County.	Mobile Bay	Approximately 900 feet west of the intersection of Main Street and Chapman Street.	◆14	◆17
			At the intersection of Pecan Avenue and Mobile Street.	None	◆11
Maps available for inspection at the Building Department, 161 North Section Street, Fairhope, Alabama.					
Send comments to The Honorable Tim Kant, Mayor of the City of Fairhope, P.O. Drawer 429, Fairhope, Alabama 36533.					
Alabama	Gulf Shores (Town), Baldwin County.	Gulf of Mexico	Approximately 250 feet south of the intersection of State Park RD 2 and Branyon Loop.	None	◆8
			Approximately 500 feet southeast of the intersection of West Beach Boulevard and Sand Dollar Lane.	◆12	◆15
		Bon Secour Bay	Approximately 0.7 mile east of intersection of Galloway Lane and Fort Morgan Road.	None	◆10
			At most northwest corner of the Gulf Shores corporate limits along the Bon Secour Bay shoreline.	◆14	◆15
		Oyster Bay	Approximately 250 feet north of intersection of Quail Run West and Oyster Bay Lane.	None	◆10
			Approximately 0.4 mile north of intersection of Quail Run West and Oyster Bay Lane.	◆10	◆14

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
Maps available for inspection at the Community Development Department, 1905 West First Avenue, Gulf Shores, Alabama.					
Send comments to The Honorable David Bodenhamer, Mayor of the Town of Gulf Shores, P.O. Box 299, Gulf Shores, Alabama 36547.					
Alabama	Orange Beach (City), Baldwin County.	Gulf of Mexico	Approximately 400 feet south of the intersection of Perdido Beach Boulevard and Polaris Street.	None	◆8
			Approximately 1,000 feet south of the intersection of East Beach Boulevard and Hocklander Lane.	◆12	◆15
		Perdido Bay	Intersection of Mobile Avenue and Camey Drive.	None ◆6	
			Approximately 350 feet southeast of intersection of Jackson Avenue and Burkart Drive.	◆8	◆9
		Wolf Bay	At intersection of Hickory Lane and Canal Road.	None	◆6
			Approximately 1,250 feet north of the intersection of Magnolia Avenue and Bay Circle.	◆6	◆8
Maps available for inspection at the Building Department, 4099 Orange Beach Boulevard, Orange Beach, Alabama.					
Send comments to The Honorable Steve Russo, Mayor of the City of Orange Beach, P.O. Box 458, Orange Beach, Alabama 36561.					
Alabama	Spanish Fort (City), Baldwin County.	Mobile Bay	Approximately 0.4 mile west of the intersection of Spanish Main and Bull Run Road.	◆14	◆15
			Approximately 500 feet west of intersection of Caisson Trail and Spanish Main.	None	◆13
Maps available for inspection at the City of Spanish Fort Flood Protection Administrator's Office, 7581 Spanish Fort Boulevard, Spanish Fort, Alabama.					
Send comments to The Honorable Gregory A. Kuhlmann, Mayor of the City of Spanish Fort, P.O. Box 7226, Spanish Fort, Alabama 36577.					
Connecticut	Cheshire (Town), New Haven County.	Judd Brook	At West Johnson Avenue	*138	*137
			Approximately 600 feet upstream of Interstate 84.	*139	*140
Maps available for inspection at the Town Planning Department, Town Hall, 84 South Main Street, Cheshire, Connecticut.					
Send comments to Mr. Michael Milone, Manager of the Town of Cheshire, 84 South Main Street, Cheshire, Connecticut 06410.					
Connecticut	Enfield (Town), Hartford County.	Waterworks Brook	Approximately 140 feet downstream of breached dam.	*55	*54
			Approximately 500 feet upstream of Elm Avenue.	*121	*124
		Terry Brook	At the confluence with the Scantic River	None	*117
			Approximately 250 feet upstream of Somers Road.	None	*204
Maps available for inspection at the Enfield Town Engineer's Office, 820 Enfield Street, Enfield, Connecticut.					
Send comments to Mr. Scott Shanley, Enfield Town Manager, 820 Enfield Street, Enfield, Connecticut 06082–2997.					
Connecticut	Marlborough (Town), Hartford County.	Blackledge River	Approximately 2,620 feet of West Road	*351	*352
			Approximately 550 feet upstream of Jones Hollow Bridge.	None	*384
		Fawn Brook	Approximately 210 feet upstream of South Main Street.	*179	*180
			Approximately 2,925 feet upstream of South Main Street.	None	*193
		Unnamed Tributary of Dickinson Creek.	At confluence with Dickinson Creek	None	*419
			A point approximately 660 feet upstream of State Route 2.	None	*423

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
Maps available for inspection at the Marlborough Town Planner's Office, Town Hall, 26 North Main Street, Marlborough, Connecticut.					
Send comments to Mr. Howard Dean, Jr., Town of Marlborough First Selectman, Town Hall, 26 North Main Street, P.O. Box 29, Marlborough, Connecticut 06447.					
Connecticut	Southington (Town), Hartford County.	Judd Brook	Approximately 75 feet upstream of Hartford County corporate limits.	*138	*139
			At confluence of East Branch Judd Brook and Humiston Brook.	*143	*144
		Humiston Brook	At confluence of Judd Brook and East Branch Judd Brook.	*143	*144
			Approximately 50 feet downstream of Marion Avenue.	*164	*166
		East Branch Judd Brook	At confluence of Judd Brook and Humiston Brook.	*143	*144
			Approximately 1,940 feet upstream of Marion Avenue.	*186	*185
Maps available for inspection at the Planning and Zoning Department, 75 Main Street, Southington, Connecticut.					
Send comments to Mr. John Weichsel, Manager of the Town of Southington, P.O. Box 610, 75 Main Street, Southington, Connecticut 06489.					
Florida	Franklin County (Unincorporated Areas).	Apalachicola Bay	Approximately 2.6 miles southeast of West Pass.	*7	*8
			Approximately 4.1 miles southwest of Government Cut in St. George Island.	*7	*10
		St. George Sound	Just east of St. George Island Bridge	*9	*10
			Shoreline of St. George Island at (and include) Marsh Island.	*15	*12
		Gulf of Mexico	Approximately 2.6 miles southeast of West Pass.	*7	*8
			Approximately 1.5 miles southeast of the confluence of Big Claires Creek with Ochlockonee Bay.	*21	*23
		Alligator Harbor	Approximately 1,000 feet north of the intersection of State Route 370 and West Harbor Road.	*15	*16
			Approximately 900 feet east of Peninsula Point.	*18	*17
Maps available for inspection at the Planning and Engineering Department, 33 Commerce Street, Apalachicola, Florida.					
Send comments to Mr. Tim Turner, Director of the Franklin County Emergency Management Agency, 33 Commerce Street, Apalachicola, Florida 32320.					
Florida	Lake County (Unincorporated Areas).	Leesburg Unnamed Ponding Area.	Entire shoreline within community	None	*70
Maps available for inspection at the Lake County Public Works, 123 North Sinclair Avenue, Tavares, Florida.					
Send comments to Mr. Jim Stivender, Jr., P.E., P.L.S., 123 North Sinclair Avenue, Tavares, Florida 32778.					
Illinois	Milan (Village), Rock Island County.	Rock River	Approximately 0.63 mile downstream of Chicago, Rock Island, and Pacific Railroad.	*563	*564
			Approximately 530 feet upstream of U.S. Route 67.	*565	*564
		North Channel Rock River	At confluence with Rock River	*563	*564
			Approximately 300 feet downstream of the Sears Dam.	*563	*564
Maps available for inspection at the Milan Village Administrator's Office, 321 West 2nd Avenue, Milan, Illinois.					
Send comments to Mr. Duane Dawson, Milan Village President, Village Hall, 321 West 2nd Avenue, Milan, Illinois 61264.					
Illinois	Rock Island (City), Rock Island County.	Mississippi River	At confluence of Rock River	*563	*564
			Approximately 2,100 feet upstream of confluence with Rock River.	*563	*564
		Rock River	At the confluence with Mississippi River	*563	*564
			Approximately 0.55 mile downstream of Chicago, Rock Island, and Pacific Railroad.	*563	*564

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
		North Channel Rock River	At confluence with Rock River	*563	*564
			Approximately 1,650 feet upstream of confluence with Rock River.	*563	*564
		Old Channel Mill Creek	At Interstate 280	None	*563
			Approximately 1,280 feet upstream of Interstate 280.	None	*563
Maps available for inspection at the City Hall, 1528 3rd Avenue, Rock Island, Illinois.					
Send comments to The Honorable Mark Schwiebert, Mayor of the City of Rock Island, 1528 3rd Avenue, Rock Island, Illinois 61201.					
Illinois	Rock Island County (Unincorporated Areas).	Shaffer Creek	At the confluence with Rock River	*572	*573
			Approximately 900 feet upstream of East 3rd Avenue.	None	579
Maps available for inspection at the Rock Island County Building, 1504 3rd Avenue, Rock Island, Illinois.					
Send comments to Mr. William R. Armstrong, Chairman of the Rock Island County Board, Rock Island County Building, 1504 3rd Avenue, Rock Island, Illinois 61201.					
Illinois	Silvis (City), Rock Island County.	Unnamed Creek	Approximately 165 feet upstream of the dam.	None	*650
			Approximately 525 feet upstream of the dam.	None	*650
Maps available for inspection at the Silvis City Inspector's Office, 1032 1st Avenue, Silvis. Illinois.					
Send comments to The Honorable Lyle E. Lohse, Mayor of the City of Silvis, 1032 1st Avenue, Silvis, Illinois 61282.					
Indiana	Carmel (City), Hamilton County.	Cool Creek	Approximately 0.975 miles upstream of confluence with West Fork White River.	*744	*743
			At East 146th Street	*816	*818
		Hot Lick Creek	At confluence with Hot Lick Creek	*769	*770
			Approximately 450 feet upstream from confluence with Cool Creek.	*769	*770
		Little Cool Creek	At confluence with Cool Creek	None	*806
			Approximately 150 feet downstream of most upstream crossing of East 136th Street.	None	*845
		Little Eagle Creek	At county boundary	None	*865
			At West 146th Street	None	*865
		Kirkendall Creek	At confluence with Vestal Ditch	None	*768
			At East 146th Street	None	*770
		Mitchener Ditch	Approximately 100 feet downstream of Cherry Tree Road.	None	*771
			At East 146th Street	None	*804
		Spring Mill Run	Approximately 300 feet upstream of confluence with Williams Creek.	None	*794
			At confluence with Well Run	None	*853
		Vestal Ditch	At confluence with West Fork White River	None	*746
			At East 146th Street	None	*769
		Well Run	At confluence with Spring Mill Run	None	*853
			Approximately 1,000 feet downstream of Torrey Pines Circle.	None	*860
Maps available for inspection at the City of Carmel Department of Community Services, 1 Civic Square, Carmel, Indiana.					
Send comments to The Honorable James Brainard, Mayor of the City of Carmel, 1 Civic Square, Carmel, Indiana 46032.					
Indiana	Grant County (Unincorporated Areas).	Lugar Creek	At the confluence with Mississinewa River.	None	*794
			At confluence with Monroe Ditch and Tippey Ditch.	None	*835
		Monroe Ditch	At the confluence with Lugar Creek	None	*835
			A point approximately 1.4 miles upstream of State Route 700.	None	*851
		Tippey Ditch	At the confluence with Lugar Creek	None	*835
			Downstream side of Bradford Pike	None	*841
		Mississinewa River	Approximately 0.4 mile upstream of State Routes 9 and 13.	None	*784
			Approximately 1,600 feet downstream of confluence of Bean Run.	None	*824

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
Maps available for inspection at the Grant County Area Planning Office, 401 South Adams Street, Marion, Indiana.					
Send comments to Mr. David Glickfield, Chairman of the Grant County Board of Commissioners, 401 South Adams Street, Marion, Indiana 46953.					
Maine	Lebanon (Town), York County.	Salmon Falls River	At downstream corporate limits	None	*190
			At upstream corporate limits	None	*421
Maps available for inspection at the Lebanon Code Enforcement Office, 655 Upper Guinea Road, Lebanon, Maine.					
Send comments to Mr. Gilber Zinck, Chairman of the Town of Lebanon Selectmen, P.O. Box 339, Lebanon, Maine 04027.					
Maine	Princeton (Town), Washington County.	Grand Falls Flowage	Entire shoreline within the Town of Princeton.	None	*204
		Lewy Lake	Entire shoreline within the Town of Princeton.	None	*204
		Long Lake	Entire shoreline within the Town of Princeton.	None	*204
Maps available for inspection at the Princeton Town Office, 15 Depot Street, Princeton, Maine.					
Send comments to Mr. Greg Monk, Chairman of the Town of Princeton Board of Selectmen, P.O. Box 408, Princeton, Maine 04668.					
Massachusetts	Westwood (Town), Norfolk County.	Bubbling Brook	Approximately 40 feet upstream of the confluence with Pettee Pond.	*145	*144
			Approximately 800 feet upstream of North Street.	None	*228
		Mill Brook	Approximately 40 feet upstream of confluence with Pettee Pond.	*145	*144
			Approximately 1,000 feet upstream of Hartford Street.	*240	*236
		Purgatory Brook	At Everett Street	*69	*66
			Approximately 1.19 miles upstream of Gay Street.	None	*175
		South Brook	At the confluence with Purgatory Brook	*71	*67
			Downstream side of East Street	*78	*76
Maps available for inspection at the Westwood Building Department, 50 Corby Street, Westwood, Massachusetts.					
Send comments to Mr. Thomas J. Dunn, Chairman of the Town of Westwood Board of Selectmen, Town of Westwood, 580 High Street, Westwood, Massachusetts 02090.					
Minnesota	Blaine (City), Anoka County.	County Ditch 41 (Sand Creek).	At upstream side of 117th Avenue	None	*892
			Approximately 1,100 feet upstream of State Route 65.	None	*895
		County Ditch 60 (Branch 1).	Approximately 350 feet downstream of Jefferson Street.	*891	*894
			At State Route 14 downstream side of Polk Street.	*896	*895
		Pleasure Creek	Approximately 450 feet upstream of University Avenue.	*891	*892
			At 98th Lane	*894	*893
Maps available for inspection at the City of Blaine Administrative Office, Engineering Department, 9150 Central Avenue Northeast, Blaine, Minnesota.					
Send comments to The Honorable Thomas Ryan, Mayor of the City of Blaine, City of Blaine Administrative Office, 9150 Central Avenue Northeast, Blaine, Minnesota 55434.					
New Hampshire	Conway (Town), Carroll County.	Kearsarge Brook	At the Conway Scenic Railroad bridge	*472	*471
			Approximately 0.36 mile upstream of Cranmore Road bridge.	None	*550
		Pequawket Road	Entire shoreline within community	*465	*464
Maps available for inspection at the Town Hall, 1634 East Main Street, Center Conway, New Hampshire.					
Send comments to Mr. Gary Webster, Chairman of the Town of Conway Board of Selectmen, Town Hall, P.O. Box 70, Center Conway, New Hampshire 03813.					
New Hampshire	Strafford (Town), Strafford County.	Bow Lake	Entire shoreline in the Town of Strafford	None	*517

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
Maps available for inspection at the Town Office, Route 202A, Center Strafford, New Hampshire.					
Send comments to Mr. Lester Huckins, Chairman of the Town of Strafford Board of Selectmen, Town Office, P.O. Box 23, Center Strafford, New Hampshire 03815.					
New Jersey	Berkeley (Township), Ocean County.	Atlantic Ocean	At 10th Lane, extended	*13	*16
			Approximately 100 feet east of intersection of 10th Lane and East Central Avenue.	*9	#1
		Barnegat Bay	Shoreline at Balsem Drive, extended	*6	*9
			Approximately 1 mile northeast of Sedge Islands.	*9	*6
Maps available for inspection at the Berkeley Town Hall, 627 Pinewald-Keswick Road, Bayville, New Jersey 08721–0287.					
Send comments to Mr. Leonard Roeber, Berkeley Township Administrator, 627 Pinewald-Keswick Road, P.O. Box B, Bayville, New Jersey 08721–0287.					
New York	Fort Plain (Village), Montgomery County.	Otsquago Creek	Approximately 540 feet upstream of the confluence with the Mohawk River.	*305	*306
			Approximately 50 feet upstream of State Route 80.	*335	*336
Maps available for inspection at the Fort Plain Village Hall, 168 Canal Street, Fort Plain, New York.					
Send comments to The Honorable Thomas L. Quackenbush, Mayor of the Village of Fort Plain, Fort Plain Village Hall, 168 Canal Street, Fort Plain, New York 13339.					
New York	Herkimer (Village), Herkimer County.	West Canada Creek	Approximately 600 feet downstream of East State Street (State Route 5).	*388	*387
			At the upstream corporate limits with the Town of Herkimer (approximately 1.36 miles upstream of East State Street).	*414	*413
Maps available for inspection at the Herkimer Village Municipal Hall, 120 Green Street, Herkimer, New York.					
Send comments to Mr. James Franco, Herkimer County Department of Public Works, South Washington, Street, Herkimer, New York 13350.					
New York	Jay (Town), Essex County.	East Branch Ausable River.	At the confluence with Ausable River	*551	*550
			At the upstream corporate limits (approximately 2.24 miles upstream of NYS Route 9N).	None	*724
		Ausable River	At the downstream corporate limits	None	*491
			At the confluence of East and West Branches of Ausable River.	*551	*550
		Tributary to East Branch Ausable River.	At the confluence with East Branch Ausable River.	None	*589
			At NYS Route 9R	None	*765
		West Branch Ausable River.	At the confluence with the Ausable River and East Branch Ausable River.	*551	*550
			Approximately 250 feet upstream of the confluence with the Ausable River.	*553	*552
Maps available for inspection at the Jay Town Hall, School Street, Ausable Forks, New York.					
Send comments to Mr. Thomas O'Neill, Jay Town Supervisor, P.O. Box 730, Ausable Forks, New York 12912.					
New York	Port Jervis (City), Orange County.	Neversink River	Downstream corporate limits	*432	*427
			Approximately 0.05 mile downstream of Main Street.	*431	*427
		Delaware River	Downstream corporate limits	*451	*448
			Upstream corporate limits	*431	*426
Maps available for inspection at the Port Jervis Municipal Building, 14 Hammond Street, Port Jervis, New York 12771.					
Send comments to The Honorable R. Michael Worden, Mayor of the City of Port Jervis, P.O. Box 1002, Port Jervis, New York 12771.					
North Carolina	Belmont (City), Gaston County.	Catawba River	Approximately 3,650 feet downstream of Norfolk Southern Railroad.	None	*585
			Approximately 250 feet upstream of Interstate 85.	None	*587
		South Fork Catawba River	Approximately 3.18 miles upstream of Armstrong Road.	*569	*571
			At Armstrong Ford Road	*570	*571

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
		Curtis Branch	At confluence with South Fork Catawba River.	*569	*571
			Approximately 980 feet upstream of the confluence with South Fork Catawba River.	*570	*571
Maps available for inspection at the Belmont City Hall, 115 North Main Street, Belmont, North Carolina.					
Send comments to The Honorable Billy Joye, Mayor of the City of Belmont, P.O. Box 431, Belmont, North Carolina 28012.					
North Carolina	Bessemer City (City), Gaston County.	Unnamed Tributary 2 to Long Creek.	Approximately 1,645 feet downstream of Iowa Avenue.	None	*793
			Approximately 325 feet upstream of Maine Avenue.	None	*820
		Oates Creek	Approximately 1.12 miles upstream of Interstate 85.	None	*790
			Approximately 1.5 feet upstream of Interstate 85.	None	*840
		Unnamed Tributary 1 to Long Creek.	Approximately 290 feet downstream of Arrowood Dam.	None	*788
			Approximately 1,190 feet upstream of Arrowood Dam.	None	*830
		Unnamed Tributary to Abernathy Creek.	Approximately 650 feet upstream of Eleventh Street.	None	*789
			Approximately 875 feet upstream of Eleventh Street.	None	*790
Maps available for inspection at the Bessemer City Hall, 132 West Virginia Avenue, Room 207, Bessemer City, North Carolina.					
Send comments to The Honorable Allan Farris, Mayor of the City of Bessemer City, 132 West Virginia Avenue, Bessemer City, North Carolina 28016.					
North Carolina	Cherryville (Town), Gaston County.	Beaverdam Creek	Approximately 150 feet downstream of Sullivan Road.	None	*868
			Approximately 500 feet upstream of Pink Street.	None	*916
			Approximately 1.31 miles upstream of 8th Avenue.	*601	*611
Maps available for inspection at the Cramerton Town Hall, 155 North Main Street, Cramerton, North Carolina.					
Send comments to The Honorable Cathy Biles, Mayor of the Town of Cramerton, 155 North Main Street, Cramerton, North Carolina 28032.					
North Carolina	Gaston County (Unincorporated Areas).	Catawba Creek	Approximately 1,475 feet upstream Beaty Road.	*618	*626
			Approximately 838 feet downstream of Union New Hope Road.	None	*588
		Catawba River	Approximately 2.8 miles upstream of confluence with Dutchman's Creek.	None	*594
			At confluence with South Fork Catawba River.	None	*571
		Duharts Creek	Approximately 0.60 mile downstream of Cramerton-McAdenville Road.	*596	*604
			Approximately 0.35 mile upstream of Lowell-Bethesda Road.	*652	*656
		Fites Creek	Approximately 75 feet upstream of CSX Transportation.	*619	*620
			Approximately 1.1 miles upstream of West Catawba Avneue.	None	*674
		Tributary R–5	Approximately 150 feet downstream of Interstate 85.	None	*713
			Approximately 0.50 mile upstream of Oates Road.	None	*814
		Unnamed Tributary 1 to Long Creek.	Confluence with Long Creek	None	*773
			Approximately 325 feet downstream of Arrowwood Dam.	None	*788
		Unnamed Tributary 2 to Long Creek.	Confluence with Long Creek	None	*741
			Approximately 1,645 feet downstream of Iowa Avenue.	None	*793
		Unnamed Tributary to Abernathy Creek.	Approximately 625 feet upstream of Eleventh Street.	None	*789

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
			Confluence with Abernathy Creek	None	*720
		Abernathy Creek	Approximately 50 feet upstream of U.S. Route 29/74.	None	*716
			Approximately 660 feet upstream of Interstate 85.	None	*771
		Beaverdam Creek	Approximately 425 feet downstream of Dallas Cherryville Highway.	None	*834
			Approximately 275 feet downstream of Pink Street.	None	*909
		Oates Creek	Approximately 100 feet downstream of Interstate 85.	None	*726
			Approximately 6,025 feet upstream of Interstate 85.	None	*790
		Tributary C–10	At the confluence with Tributary C–10–1	*712	*715
			Approximately 100 feet upstream of East Hudson Boulevard.	*726	*732
		Tributary C-10–1	Approximately 575 feet downstream of East Hudson Boulevard.	*724	*720
			Approximately 650 feet upstream of East Hudson Boulevard.	None	*731
		Kittys Branch	At the confluence with Catawba River	*571	*585
			Approximately 40 feet downstream of CSX Railroad.	*584	*585
		South Fork Catawba River	At the confluence with Catawba River	*569	*571
			At North Carolina State Road 2519	*569	*571
		Nancy Hanks Branch	At confluence with Catawba River	*571	*585
			Approximately 3,620 feet upstream of confluence with Catawba River.	*584	*585
		Stowe Branch	At the confluence with Catawba River	*572	*585
			Approximately 1,470 feet upstream of confluence of the Stowe Branch Tributary.	*584	*585
		Stowe Tributary	At the confluence with Stowe Branch	*576	*585
			Approximately 1,260 feet upstream of confluence with Stowe Branch.	*584	*585
Maps available for inspection at the Gaston County Planning/Code Enforcement Office, 212 West Main Avenue, Gastonia, North Carolina. Send comments to Mr. Philip Ponder, Interim Gaston County Manager, P.O. Box 1578, Gastonia, North Carolina 28053.					
North Carolina	Gastonia (City), Gaston County.	Forest Brook Branch	At confluence with Catawba Creek	*628	*635
			Approximately 125 feet upstream of Pineridge Avenue.	*819	*821
		Duharts Creek	Approximately 0.48 mile downstream of Lowell-Bethesda Road.	*623	*628
			Approximately 450 feet upstream of Redbud Road.	*665	*666
		Catawba Creek	Approximately 0.85 mile downstream of confluence with Forest Brook Branch.	*617	*625
			Approximately 650 feet upstream of Vance Street.	None	*769
		Tributary C–3	At the confluence with Catawba Creek	*644	*649
			Approximately 1,200 feet upstream of Steeple Chase Road.	*699	*696
		Tributary C–4	At the confluence with Catawba Creek	*648	*655
			Approximately 2,000 feet upstream of the confluence with Catawba Creek.	*674	*681
		Tributary C–5	At the confluence with Catawba Creek	*654	*658
			Approximately 1,350 feet upstream of East Hudson Boulevard.	*687	*681
		Tributary C–5–1	At the confluence of Tributary C–5	*660	*658
			Approximately 1,325 feet upstream of East Hudson Boulevard.	*691	*680
		Tributary C–6	At the confluence with Catawba Creek	*678	*680
			Approximately 0.4 mile upstream of East Hudson Boulevard.	*730	*735
		Tributary C–7	Approximately 250 feet upstream of the confluence with Catawba Creek.	*696	*695
			Approximately 480 feet upstream of Laurel Lane.	*734	*731
		Tributary C–8	At the confluence with Catawba Creek	*695	*699

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
			Approximately 0.34 mile upstream of Scotch Drive.	*733	*736
		Tributary C–9	At the confluence with Catawba Creek	*697	*702
			Approximately 0.30 mile upstream of confluence with Catawba Creek.	*714	*717
		Tributary C–10	At the confluence with Catawba Creek	*704	*714
			Approximately 100 feet upstream of East Hudson Boulevard.	*726	*732
		Tributary C-10–1	At the confluence with Tributary C–10	*712	*715
			Approximately 575 feet downstream of East Hudson Boulevard.	*724	*720
		Tributary C–11	At the confluence with Catawba Creek	*712	*717
			Approximately 1,210 feet upstream of Efird Street.	*757	*759
		Tributary C–12	At the confluence with Catawba Creek	*713	*718
			Approximately 275 feet upstream of Oakland Street.	*762	*760
		Tributary C–14	At the confluence with Catawba Creek	*725	*728
			Approximately 300 feet upstream of Tenth Avenue.	*732	*735
		Tributary C–15	At the confluence with Catawba Creek	*733	*737
			Approximately 540 feet upstream of Home Trail.	*747	*746
		Tributary C–16	At the confluence with Catawba Creek	*743	*744
			Approximately 475 feet upstream of the confluence of Tributary C–16–1.	*749	*753
		Tributary C–16–1	At the confluence with Tributary C–16	*745	*747
			Approximately 1,310 feet upstream of the confluence with Tributary C–16	*756	*758
		Tributary R–5	Approximately 0.32 mile from confluence of Crowders Creek.	*689	*688
			Approximately 350 feet from confluence of Oates Creek	*708	*707
		Avon Creek	At the confluence with Catawba Creek	*701	*703
			Approximately 75 feet downstream of U.S. Route 29/74	*779	*778
		Oates Creek	At the confluence with Tributary R–5	None	*708
			Approximately 100 feet downstream of Interstate 85	None	*726
Maps available for inspection at the City of Gastonia Engineer's Office, 181 South Street, Gastonia, North Carolina.					
Send comments to The Honorable Jennifer Stultz, Mayor of the City of Gastonia, P.O. Box 1748, Gastonia,					
North Carolina	McAdenville (Town), Gaston County.	South Fork Catawba River	Approximately 2,950 feet downstream of Main Street.	None	*584
			Approximately 1.9 miles upstream of Highway 85.	None	*611
Maps available for inspection at the McAdenville Town Hall, 125 Main Street, McAdenville, North Carolina.					
Send comments to The Honorable Jerry Helton, Mayor of the Town of McAdenville, P.O. Box 9, McAdenville, North Carolina 28101.					
North Carolina	Mount Holly (City), Gaston County.	Catawba River	Approximately 230 feet upsream of Interstate 85.	None	*587
			Approximately 1,910 feet upstream of confluence of dutchmans Creek	None	*591
		Fites Creek	At confluence with Catawba River	None	*589
			Approximately 2,850 feet upstream of Belton Avenue	*612	*615
		Dutchmans Creek	At confluence with Catawba River	*577	*592
			Approximately 3,750 feet upstream of Main Street	*591	*592
Maps available for inspection at the Mount Holly City Hall, 131 South Main Street, Mount Holly, North Carolina.					
Send comments to The Honorable Frank McLean, Mayor of the City of Mount Holly, P.O. Box 406, Mount Holly, North Carolina 28120.					
Ohio	Montezuma (Village), Mercer County.	Grand Lake-St. Marys	At intersection of Wyatt Street and Canal Street.	None	*873

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
Maps available for inspection at the Montezuma Village Hall, 69 West Main Street, Montezuma, Ohio.					
Send comments to The Honorable Charlotte Garman, Mayor of the Village of Montezuma, P.O. Box 178, Montezuma, Ohio 45866.					
Ohio	Niles (City), Trumball County.	Meander Creek	Approximately 0.6 mile upstream of CSX Transportation.	*861	*862
			Approximately 50 feet upstream of corporate limits.	*861	*862
Maps available for inspection at the Niles Building and Zoning Department, 34 West State Street, Niles, Ohio.					
Send comments to The Honorable Ralph Infante, Mayor of the City of Niles, 34 West State Street, Niles, Ohio 44446.					
Pennsylvania	Browmanstown (Borough), Carbon County.	Lehigh River	Approximately 0.76 mile downstream of State Route 895.	None	*417
			Approximately 0.49 mile upstream of State Route 895.	None	*432
		Fireline Creek	At confluence with Lehigh River	None	*424
			Approximately 1,750 feet downstream of Cherry Hill Road.	None	*545
Maps available for inspection at the Bowmanstown Borough Hall, Mill and Ore Streets, Browmanstown, Pennsylvania.					
Send comments to Mr. Verdell Steigerwalt, President of the Bowmanstown Borough Council, P.O. Box 127, Bowmanstown, Pennsylvania 18030.					
Pennsylvania	East Penn (Township), Carbon County.	Lehigh River	Approximately 1.7 miles downstream of Palmerton Dam.	*385	*388
			Approximately 5,100 feet upstream of State Route 895.	*437	438
Maps available for inspection at the East Penn Township Building, 167 Municipal Road, Lehighton, Pennsylvania.					
Send comments to Mr. Gordon Scherer, Chairman of the East Penn Township Board of Supervisors, 167 Municipal Road, Lehighton, Pennsylvania.					
Pennsylvania	Franklin (Township), Carbon County.	Lehigh River	Approximately 1 mile downstream of State Route 209.	*449	*452
			Approximately 0.82 mile downstream of Lehigh Valley Railroad.	*491	*497
Maps available for inspection at the Franklin Township Hall, 900 Fairyland Road, Lehighton, Pennsylvania.					
Send comments to Mr. Glen Haydt, Chairman of the Franklin Township Board of Supervisors, 900 Fairyland Road, Lehighton, Pennsylvania 18235.					
Pennsylvania	Jim Thorpe (Borough), Carbon.	Lehigh River	Approximately 0.82 mile downstream of Lehigh Valley Railroad.	*491	*497
			Approximately 2 mile upstream of State Route 903.	None	*564
Maps available for inspection at the Jim Thorpe Borough Hall, 101 East Tenth Street, Jim Thorpe, Pennsylvania.					
Send comments to Mr. Mike Sofranko, President of the Borough of Jim Thorpe, 101 East Tenth Street, Jim Thorpe, Pennsylvania 18229.					
Pennsylvania	Langhorne Manor (Borough), Bucks.	Chubb Run	At Comly Avenue	*83	*96
			Approximately 90 feet Approximately 90 feet upstream of Gillam Avenue.	*196	*197
Maps available for inspection at the Langhorne Borough Building, 618 Hulmeville, Langhorne Manor, Pennsylvania.					
Send comments to Ms. Maryann Barnes, Borough of Langhorne Manor, Council President, 618 Hulmeville Road, Langhorne Manor, Pennsylvania 19047.					
Pennsylvania	Lehighton (Borough), Carbon County.	Lehigh River	Approximately 1,160 feet downstream of State Route, 209.	*459	*464
			Approximately 1.3 miles Approximately 90 feet upstream of State Route 209.	*475	*482
		Mahoning Creek	At the confluence with Lehigh River	*459	*464
			Approximately 1,600 feet upstream of the confluence with Lehigh River.	*463	*464

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
Maps available for inspection at the Lehighton Borough Hall, 1 Constitution Avenue, Lehighton, Pennsylvania. Send comments to Mr. John Hanosek, Manager of the Borough of Lehighton, P.O. Box 29, Lehighton, Pennsylvania 18235					
Pennsylvania	Lower Towamensign (Township), Carbon County.	Lehigh River	Approximately 1.7 miles downstream of Palmerton Dam.	*None	*388
			Approximately 620 feet downstream of Pennsylvania Turnpike.	None	*443
		Aquashicola Creek	At the confluence with Lehigh River	None	*393
			Approximately 2 mile upstream of State Route 903.	None	*468
		Fireline Creek	Approximately 1,750 feet downstream of Cherry Hill Road.	None	*545
			Approximately 1.2 miles upstream of Cherry Hill Road.	None	*687
Maps available for inspection at the Lower Towamensing Township Hall, 595 Hahns Dairy Road, Palmerton, Pennsylvania. Send comments to Mr. Glen Hahn, Chairman of the Lower Towamensing Township Board of Supervisors, 595 Hahns Dairy Road, Palmerton, Pennsylvania 18071.					
Pennsylvania	Mahoning (Township), Carbon County.	Lehigh River	Approximately 5,100 feet upstream of State Route 895.	*437	*438
		Mahoning Creek	At the confluence with Lehigh River	*459	*464
			Approximately 500 upstream of confluence with Lehigh River.	*463	*464
Maps available for inspection at the Mahoning Township Office, 2685 Mahoning Drive East, Lehighton, Pennsylvania. Send comments to Mr. Bruce L. Keiper, Chairman of the Mahoning Township Board of Supervisors, 2685 Mahoning Drive East, Lehighton, Pennsylvania 18235.					
Pennsylvania	Middletown (Township), Bucks County.	Chubb Run	At confluence with Neshaminy Creek	None	*40
			Approximately 90 feet upstream of Gillam Avenue.	*196	*197
Maps available for inspection at the Middletown Township Zoning and Planning Office, 2140 Trenton Road, Levittown, Pennsylvania. Send comments to Mr. Burke, Middletown Township Manager, 2140 Trenton Road, Levittown, Pennsylvania 18235.					
Pennsylvania	Nesquehoning (Borough), Carbon County.	Lehigh River	Approximately 2 miles upstream of State Route 903.	None	*564
		Nesquehoning Creek	At confluence with Lehigh River	None	*555
			Approximately 1,850 feet upstream of of Tonolli Corporate Road.	None	*1,014
Maps available for inspection at the Nesquehoning Borough Hall, 114 West Catawissa, Nesquehoning, Pennsylvania. Send comments to Mr. Joseph Greco, Secretary of the Borough of Nesquehoning, 114 West Catawissa, Nesquehoning, Pennsylvania 18240.					
Pennsylvania	Palmerton (Borough), Carbon County.	Lehigh River	Approximately 5,070 feet downstream of Palmerton Dam.	None	*395
			Approximately 1.37 miles upstream of Palmerton Dam.	*418	*417
		Aquashicola Creek	Approximately 1.4 miles upstream of State Route 248.	*393	*394
			Approximately 1,000 feet downstream of CONRAIL.	*417	*418
Maps available for inspection at the Palmerton Borough Hall, 443 Delaware Avenue, Palmerton, Pennsylvania. Send comments to Mr. John Vignone, Council President of the Borough of Palmerton, 443 Delaware Avenue, Palmerton, Pennsylvania 18071.					
Pennsylvania	Parryville (Borough), Carbon County.	Lehigh River	Approximately 850 feet downstream of Pennsylvania Turnpike.	*439	*443
			Approximately 1 mile downstream of State Route 209.	*449	*452
		Pohopoco Creek	At confluence with Lehigh River	*439	*443
			Approximately 1,175 feet upstream of confluence with Lehigh River.	*442	*443

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
Maps available for inspection at the Parryville Borough Hall, 967 Cherryhill Road, Parryville, Pennsylvania.					
Send comments to Ms. Bernice Bashore, Council President of the Borough of Parryville, P.O. Box 263, Parryville, Pennsylvania 18244.					
Pennsylvania	Penndel (Borough), Bucks County.	Chubb Run	Approximately 0.70 feet upstream of Hulmeville Road.	None	*62
			Just downstream of CONRAIL	None*	80
Maps available for inspection at the Penndel Borough Office, 300 Bellevue Avenue, Penndel, Pennsylvania.					
Send comments to Ms. Arlene Harms, Borough of Penndel Council President, 300 Bellevue Avenue, Penndel, Pennsylvania 19047.					
Pennsylvania	Weissport (Borough), Carbon County.	Lehigh River	Approximately 0.52 mile downstream of State Route 209.	*457	*460
			Approximately 700 feet upstream Central Railroad.	*472	*475
Maps available for inspection at the Weissport Borough Hall, 440 Allen Street, Weissport, Pennsylvania.					
Send comments to Mr. Carl Wolfe, Jr., Borough of Weissport Zoning Officer, P.O. Box 339, Lehighton, Pennsylvania 18235.					
Tennessee	Chattanooga (City), Hamilton County.	North Chickamauga Creek	At confluence with the Tennessee River	*661	*660
			Approximately 200 feet downstream of Thrasher Pike.	*684	*682
		Tennessee River	Approximately 1,625 feet downstream of Shoal Creek.	*651	*650
			Just downstream of Chickamauga Dam	*661	*660
		Mountain Creek	At the confluence with the Tennessee River.	*653	*652
			Approximately 1,109 feet upstream of the Norfolk Southern Railway.	*653	*652
		Lookout Creek	At the confluence with Tennessee River	*655	*654
			Approximately 160 feet upstream of the confluence of Black Creek.	*655	*654
		Black Creek	At the confluence with Lookout Creek	*655	*654
			At downstream side of Norfolk Southern Railway (first crossing).	*655	*654
		Shallow Flooding Areas	In the vicinity of the Tennessee River, south of Cherokee Boulevard.	*657	*656
		Stringers Branch	At the confluence with Mountain Creek	*653	*652
			At Signal Mountain Boulevard	*653	*652
		Chattanooga Creek	Approximately 850 feet downstream of Market Street.	*656	*655
			At downstream side of Norfolk Southern Railway.	*656	*655
Maps available for inspection at the City of Chattanooga City Hall Annex, 101 East 11th Street, Room 44, Chattanooga, Tennessee.					
Send comments to The Honorable Bob Corker, Mayor of the City of Chattanooga, City Hall, East 11th Street, Room 100, Chattanooga, Tennessee 37402.					
Tennessee	Collegedale (City), Hamilton County.	Wolftever Creek Tributary	At the confluence with Wolftever Creek	*762	*761
			Approximately 950 feet upstream of Bill Reed Road.	None	*790
		Wolftever Creek	At the confluence of Wolftever Creek Tributary.	*762	*761
			Approximately 400 feet upstream of Ringgold-Ooltawah Road.	*767	*766
Maps available for inspection at the City of Collegedale Public Safety Director's Office, 4910 Swinyar Drive, Collegedale, Tennessee.					
Send comments to Mr. Bill Magoon, Collegedale City Manager, P.O. Box 1880, Collegedale, Tennessee 37315.					
Tennessee	East Ridge (City), Hamilton County.	Spring Creek	At Interstate 75	*678	*679
			At Spring Creek Road	*678	*679
		South Chickamauga Creek	Approximately 800 feet downstream of Louisville and Nashville Railroad.	*677	*678
			At upstream state boundary	*691	*689
Maps available for inspection at the Building Department, 1517 Tombras Avenue, East Ridge, Tennessee.					
Send comments to The Honorable Fred Pruett, Mayor of the City of East Ridge, 1517 Tombras Avenue, East Ridge, Tennessee 37412.					
Tennessee	Hamilton County (Unincorporated Areas).	Rogers Branch	At confluence with Wolftever Creek	*688	*687

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
			At Access/Mountain View Road	None	*748
		Rogers Branch Tributary	At confluence with Rogers Branch	None	*719
			Approximately 550 feet upstream of Interstate 75.	None	*742
		Wolftever Creek	At the confluence with Wolftever Creek	*762	*761
			Approximately 2,000 feet upstream of Bill Reed Road.	None	*795
		Wolftever Creek Tributary	At the confluence of Wolftever Creek Tributary.	*762	*761
			Approximately 350 feet upstream of confluence of Wolftever Creek Tributary.	*762	*761
		Little Soddy Creek	At the City of Soddy-Daisy corporate limits.	None	*820
			Approximately 120 feet upstream of the City of Soddy-Daisy corporate limits.	None	*823
		Lookout Creek	Approximately 135 feet downstream of the Norfolk Southern Railway.	*655	*654
			Approximately 525 feet upstream of Cummings Highway.	*655	*654
		Tennessee River	At the county boundary	*649	*646
			At the confluence of Shoal Creek	*652	*650
		Fruedenberg Creek	Approximately 250 feet upstream of confluence of Middle Creek.	None	*1,670
			Approximately 0.9 mile upstream of confluence of Middle Creek.	None	*1,777
		Lick Branch	At confluence with North Chickamauga Creek.	*671	*670
			Approximately 50 feet downstream of Thrasher Pike.	None	*676
		Lick Branch Tributary 1	At confluence with Lick Branch	*671	*670
			Approximately 100 feet downstream of Thrasher Pike.	None	*683
		Lick Branch Tributary 2	At confluence with Lick Branch	*671	*670
			Approximately 50 feet downstream of Thrasher Pike.	None	*675
		Lick Branch Tributary 3	At confluence with Lick Branch	*671	*670
			Approximately 50 feet downstream of Thrasher Pike.	None	*680
		Middle Creek	Approximately 1,100 feet downstream of Edwards Point Road.	*670	*669
			Approximately 50 feet downstream of Timesville Road.	*754	*753
		North Chickamauga Creek	At the upstream side of Lower Mill Road	*670	*669
			Approximately 1 mile upstream of Dayton Pike.	*754	*753
		Possum Creek	At Lee Pike	*688	*862
			Approximately 1.4 miles upstream of Black Valley Road.	*861	*687
		Sale Creek	At the confluence with the Tennessee River.	*687	*688
			Approximately 1,580 feet upstream of the confluence with the Tennessee River.	*687	*688
Maps available for inspection at the Regional Planning Agency, County Courthouse, Room 208, Chattanooga, Tennessee.					
Send comments to Mr. Claude Ramsey, Hamilton County Executive, County Courthouse, Room 208, Chattanooga, Tennessee 37402.					
Tennessee	Red Bank (City), Hamilton County.	Stringers Branch	Approximately 400 feet downstream of Signal Mountain Boulevard.	*653	*652
			At Barker Road	None	*785
Maps available for inspection at the Red Bank City Hall, 3117 Dayton Boulevard, Red Bank, Tennessee.					
Send comments to The Honorable Ronnie Moore, Mayor of the City of Red Bank, 3117 Dayton Boulevard, P.O. Box 15069, Red Bank, Tennessee 37415.					
Tennessee	Selmer (City), McNairy County.	Cypress Creek	Approximately 1,700 feet downstream of South Fourth Street.	None	*433
			Approximately 1,855 feet upstream of Purdy Road.	None	*444
		Crooked Creek	At the confluence with Cypress Creek	None	*439
			Approximately 0.5 mile upstream of Highschool Road.	None	*459

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (◆NAVD)	
				Existing	Modified
Maps available for inspection at the City Hall, 144 North Second Street, Selmer, Tennessee.					
Send comments to The Honorable Jimmy Whittington, Mayor of the City of Selmer, 144 North Second Street, Selmer, Tennessee 38375.					
Tennessee	Signal Mountain (Town), Hamilton County.	Middle Creek	At Edwards Point Road	None	*1,641
			Approximately 850 feet upstream of Middle Creek Road.	None	*1,675
		Fruedenberg Creek	At confluence with Middle Creek	None	*1,667
			Approximately 0.9 mile upstream of confluence with Middle Creek.	None	*1,774
Maps available for inspection at the Building Inspector's office, 1111 Ridgeway Avenue, Signal Mountain, Tennessee.					
Send comments to The Honorable James Althaus, Mayor of the Town of Signal Mountain, 1111 Ridgeway Avenue, Signal Mountain, Tennessee 37377.					
Tennessee	Soddy-Daisy (City), Hamilton County.	North Chickamauga Creek	Approximately 200 feet downstream of Thrasher Pike.	*684	*682
			Approximately 1 mile upstream of Dayton Pike.	*754	*753
		Poe Branch	Approximately 2,500 feet downstream of Harrison Lane.	*685	*684
			Approximately 1,325 feet upstream of Card Road.	None	*741
		Soddy Creek	Approximately 50 feet upstream of the Norfolk Southern Railway.	*755	*748
			Approximately 740 feet upstream of the Norfolk Southern Railway.	None	*758
Maps available for inspection at the City Hall Office, 9835 Dayton Pike, Soddy-Daisy, Tennessee.					
Send comments to The Honorable Bob Privett, Mayor of the City of Soddy-Daisy, 9835 Dayton Pike, Soddy-Daisy, Tennessee 37379.					
Vermont	Woodstock (Town and Village), Windsor County.	Ottauquechee River	Approximately 550 feet upstream of U.S. Route 4.	*696	*697
			At the upstream corporate limits	*816	*812
Maps available for inspection at the Town Hall, 31 The Green, Woodstock, Vermont.					
Send comments to Mr. John Doten, Chairman of the Board of Selectmen, Town Hall, P.O. Box 488, Woodstock, Vermont 05091.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–24348 Filed 9–27–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2146; MM Docket No. 01–236, RM–10242 ; MM Docket No. 01–01–137, RM–10243; MM Docket No. 01–238, RM–10244; MM Docket No. 01–239, RM–10245; MM Docket 01–240, RM–10246; MM Docket No. 01–241; RM–10247; MM Docket No. 01–242; RM–10248]

Radio Broadcasting Services; Arnett, OK; Sayre, OK, Hebbronville, TX; Bruni, TX; Rison, AK; Oscoda, MI; and Highland, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes seven new FM allotments to Arnett, Oklahoma; Sayre, Oklahoma; Hebbronville, Texas; Bruni, Texas; Rison, Arkansas; Oscoda, Michigan; and Highland, Michigan. The proposed allotments are in response to petitions filed. See **SUPPLEMENTARY INFORMATION**, for more detailed information on the proposed allotments.

DATES: Comments must be filed on or before November 5, 2001, and reply comments on or before November 20, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Katherine Pyeatt, 6655 Aintree Circle, Dallas Texas, (Petitioner for Arnett, Oklahoma); Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061 (Petitioner for Sayre, Oklahoma; Hebbronville and Bruni, Texas); Charles Crawford, 4553 Bordeaux Ave., Dallas, Texas 75205 (Petitioner for Rison, Arkansas; Oscoda and Highland, Michigan).

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–236; MM Docket No. 01–237; and MM Docket No. 01–238, MM Docket No. 01–239; MM Docket No. 01–240; MM Docket No. 01–241; and MM Docket No. 01–242, adopted September 5, 2001, and released September 14, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington DC 20554.

The Commission requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel

285C2 at Arnett, Oklahoma, as the community's first local aural transmission service. Channel 285C2 can be allotted to Arnett in compliance with the Commission's minimum distance separation requirements with a site restriction of 24 kilometers (14.9 miles) southwest. The coordinates for Channel 285C2 are 35–00–10 North Latitude and 99–59–06 West Longitude.

The Commission requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 269C2 at Sayre, Oklahoma, as the community's first local aural transmission service. Channel 269C2 can be allotted to Sayre in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 269C2 at Sayre are 35–17–28 North Latitude and 99–38–23 West Longitude.

The Commission requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 254A at Hebbronville, Texas, as the community's second local FM transmission service. Channel 254A can be allotted to Hebbronville in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.6 kilomters (6.6 miles) west to avoid a short-spacing to the licensed site of Station KGBT–FM, Channel 253C, McAllen, Texas. The coordinates for Channel 254A at Hebbronville are 27–20–15 North Latitude and 98–46–45 West Longitude. Since Hebbronville is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

The Commission requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 293A at Bruni, Texas, as the community's first local aural transmission service. Channel 293A can be allotted to 6.8 kilometers (4.2 miles) north in compliance with the Commission's minimum distance separation requirements to avoid a short-spacing to the licensed site of Station KPSO–FM, Channel 292A, Falfurria, Texas, the construction permit site of Station KTKY(FM), Channel 293C2, Taft, Texas, and the allotment site for Channel 294A at El Lobo, Texas. The coordinates for Channel 293A at Bruni are 27–29–12 North Latitude and 98–51–00 West Longitude. Since Bruni is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

The Commission requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 255A at Rison, Arkansas, as the community's first local aural transmission service. Channel 255A can be allotted to Rison in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.2 kilomters (1.4 miles) southwest to avoid a short-spacing to the licensed site of Station KZYP)(FM), Channel 257A, Pine Bluff, Arkansas. The coordinates for Channel 255A at Rison are 33–56–30 North Latitude and 92–12–13 West Longitude.

The Commission requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 243A at Oscoda, Michigan as the community's third local FM transmission service. Channel 243A can be allotted to Oscoda in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 243A at Oscoda are 44–25–48 North Latitude and 83–19–36 West Longitude. Since Oscoda is located within 320 kilometers (199 miles) of the U.S.-Canadian, concurrence of the Canadian government has been requested.

The Commission requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 236A at Highland, Michigan, as the community's first local aural transmission service. Channel 236A can be allotted to Highland in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 236A at Highland are 44–15–47 North Latitude and 85–20–27 West Longitude. Since Highland is located within 320 kilometers (199 miles) of the U.S.-Canadian, concurrence of the Canadian government has been requested.

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

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by adding Rison, Channel 255A.

3. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Highland, Channel 236A; and by adding Channel 243A at Oscoda.

4. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Arnett, Channel 285C2; and by adding Sayre, Channel 269C2.

5. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Bruni, Channel 293A; and by adding Channel 254A at Hebbronville.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–24136 Filed 9–27–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 01–8885; Notice 01]

RIN 2127–AH81

Glare From Headlamps and Other Front Mounted Lamps Federal Motor Vehicle Safety Standard No. 108; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments.

SUMMARY: The agency is currently examining the issues related to glare produced by lamps mounted on the fronts of vehicles. Typically, these are lower and upper beam headlamps, fog lamps, driving lamps, auxiliary lower beam headlamps and daytime running lamps. All except the latter, are used almost exclusively at night. Glare associated with daytime running lamps is the subject of an ongoing rulemaking intended to reduce their intensity (see 63 FR 42348, Docket NHTSA–98–4124

Notice 1.) This notice does not address daytime running lamps; it does address headlamps and other front-of-vehicle roadway illumination lamps that are used primarily at night.

We have received almost two hundred complaints from consumers on this subject in the last two years. The three most common complaints we have received recently were on the glare created by the higher-mounted headlamps, glare from high intensity discharge headlamps (HIDs), and glare from ''extra'' headlamps. While we have received complaints about upper beams, too, this paper addresses only those lamps mentioned above that drivers use in the presence of other drivers. Regardless, the subject of glare, whether from lower beams, upper beams, daytime running lamps or any other similar lamp, is important to NHTSA.

The first of the complaints is about high mounted headlamps found on sport utility vehicles (SUVs), pickup trucks, and vans, collectively known as LTVs. Mounted high enough to place the more intense part of their low beam into passenger car inside and outside mirrors and to light up the interiors, high mounted headlamps are viewed by many drivers as dangerous and intimidating, in addition to being annoying and disabling. The second set is about HID headlamps initially found on higher priced passenger cars, and recently on LTVs and moderately priced passenger cars. Their robust illumination performance and whiter, almost blue, color make them easily identifiable as a new source of glare. The third set is about extra headlamps, that are those auxiliary lamps fitted to motor vehicles that are typically called fog, driving and auxiliary headlamps. Potential misuse by drivers and characteristics of these popular original equipment and aftermarket lamps may be creating a glare problem. All three of these form a common thread throughout the letters written to NHTSA about nighttime glare. Many of these letters may be found in Docket Number: NHTSA–1998–4820.

This document discusses these and other issues, some potential solutions and asks some questions that we hope will help us find some practical and effective solutions for the American public.

DATES: Comments must be received on or before November 27, 2001.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Management, Room PL–401, 400 Seventh Street SW, Washington, DC 20590. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. Comments may be submitted electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* Click on ''Help'' to obtain instructions for filing the document electronically.

FOR FURTHER INFORMATION CONTACT: For technical issues, please contact Mr. Chris Flanigan, Office of Safety Performance Standards, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Flanigan's telephone number is (202) 366–4918 and his facsimile number is (202) 366–4329. For legal issues please contact Mr. Taylor Vinson, Office of Chief Counsel, at the same address. Mr. Vinson's telephone number is (202) 366–2992.

SUPPLEMENTARY INFORMATION:

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1 Background

At the turn of the Twentieth Century, with the automobile industry still in its infancy, some vehicles began to be equipped with kerosene lamps for use as night time road illumination. Within ten years, vehicle manufacturers began to use electric headlamps on vehicles. In 1914, members of the Society of Automotive Engineers (SAE) who were involved in the design and specification of motor vehicle lighting began to express their first concerns about the glare produced by these headlamps. Since that time, SAE members, who were primarily lighting and optical engineers, and human factors scientists have sought various ways to reduce glare for other drivers and, at the same time, improve the roadway illumination for drivers. Over the years, hundreds of variations of headlamps and unique technologies have been implemented on motor vehicles. For example, there were many variants of glare reducing devices, before lower and upper beams became the norm, that were achieved by a mechanical metal shield that was rotated into place in front of the bulb within the headlamp, typically by using a driver actuated cable. The effect was to reduce the emitted light, either direct or reflected, leaving only light directed away from oncoming drivers. Another example from about 1929, was General Electric's Tung-Sol Blue-Wite™ headlamp bulb. It was advertised as providing whiter light for safer road illumination and added comfort, with courtesy extended to others. The pale blue color of the glass, reduced the red content of the light emitted.

Many formal research reports, technical papers and meeting minutes of the World's motor vehicle lighting experts have been generated over the last nine decades to discuss and tune the delicate balance between glare and vision at night from motor vehicle headlamps. These resulted in fairly consistent decisions among the headlamp researchers and designers around the world. The resultant beam pattern specifications, with some subtle variations to accommodate specific roadway and driving conditions in different countries, have been incorporated in the lighting regulations of many countries for many decades.

The headlamps available in the first third of the Twentieth Century were not nearly as reliable and as resistant to environmental degradation as headlamps today. Consequently, the replacement of headlamps parts was a persistent safety maintenance and inspection issue that concerned the states. This occurred because of the proliferation of hard to find replacement lenses, replacement reflectors and replacement bulbs. These were often not available at local service stations. Thus, in the U.S., the states agreed circa 1937 to adopt and standardize sealed beam headlamps technology, establishing interchangeability as specified in SAE standards as a top safety priority. In 1968, in response to Congressional initiatives, Federal Motor Vehicle Safety Standard No. 108, ''Lamps, reflective devices, and associated equipment,'' (FMVSS No. 108) set, on a national basis, the minimum and maximum luminous intensities for headlamps, headlamp mounting heights, and standardization of headlamps. This standard essentially adopted the existing performance levels in industry consensus standards by the SAE. That

performance, as evolved since the beginning of motor vehicle lighting, is still intended today to ensure that a balance between glare and necessary illumination is maintained.

The balance the agency has maintained between visibility for the vehicle operator while minimizing glare for other operators has changed very little since its Federal codification. In 1968, however, light trucks represented only 10 percent of light vehicle sales and the most advanced technology used then for lighting was incandescent filament type sealed beam lamps.

The allowable range of total illumination performance in Federal standards is fairly wide. There are points in the beam that require minimum levels of intensity, maximum levels and some that have both minimums and maximums. Between those points, there are no requirements. The NHTSA conclusion has been that the nature of headlamp optics tend to make additional test points not necessary.

Also, the range of headlamp mounting height has been relatively consistent for decades. In adopting the industry consensus standard, NHTSA, set the initial mounting height requirements to be within the range of 24 to 54 inches measured to the center of the headlamp. Today, NHTSA's requirements set a mounting height range from 22 to 54 inches. The range exists to accommodate the wide variations in vehicle size and ground clearance needed for vehicles' intended purpose, while addressing the need for safety. Heavy duty trucks and LTVs, which may use larger tires, usually have headlamps mounted higher than passenger cars. This is because the body is higher, so the lamps are higher, too. Typically, glare complaints of years past were about heavy trucks. More recently, such complaints are rare to non-existent. We believe that it is likely that the public has transferred its glare concerns to vehicles that represent a larger portion to the total vehicle population. Many of the recent glare complaints are about LTV headlamps.

The nature and response to glare is interesting. Whether from headlamps or lamps in your home, there is a distinction between glare that is disturbing and glare which is disabling. Essentially, as the intensity of a light source increases, the impression of the light seen by observers can range from barely noticeable to disturbing, and eventually disabling. The particular response of an individual to any glare source varies based on its luminance, the intensity of ambient lighting, the distance and angle between the light source and the observer, the duration of observation, the age of the observer, and many other factors. Controlling the intensity of the light source is one variable among many dozens that affect the glare for drivers. Controlling the location of the light source, relative to the observer's line of sight, whether direct view or indirect view (e.g. from mirrors) is another way. As an example of controlling the intensity, the use of day-night mirrors has been available for decades. As an example of changing the position, most formal driver's training teaches drivers to avert their eyes away from oncoming vehicles' headlamps and look toward the road shoulder on their side. The effect of this is to increase the angle between the observers' line of sight and the glare source, reducing glare and make it less annoying and/or disabling.

In the past, the agency has taken a number of steps to address headlamp glare. In the 1970's, NHTSA began research in response to consumer suggestions that vehicles should have a lower intensity third beam for driving in well-lit areas. A contractor was asked to determine whether such a three-beam head lighting system was feasible. This system would give the option of using an urban beam, a suburban beam, or an open highway beam. The results of this research, however, were discouraging, for the reasons discussed below.

With three beams, choosing the correct beam quickly would be at least as important as choosing between just the lower and upper, today. A wrong choice because of indecision or because of a poorly thought-out switching scheme would cause risk of a crash from either disabling glare or from insufficient illumination. Ideally, approaching drivers should deselect the upper beam and choose one of the lesser beams. Choosing the suburban beam might still achieve disabling glare, especially if the opposing driver had chosen the urban beam intended for lower speed, higher density traffic. One of the problems was the difficulty of devising a switching scheme that would assure that the driver would be able to easily select the desired, and hopefully correctly chosen, beam. With a three beam system, the selection of the particular beam desired, becomes not one of just selecting ''the other,'' but of selecting the better of the two remaining choices, and switching to it correctly and quickly. Then, and today, the lower or upper beam is selected by a simple alternating switching method. A switch or stalk is pushed or pulled once, and the other beam is selected. There is little likelihood for error, either in choosing or selecting. It is a decision that on occasion, must be done virtually instantaneously, and mostly without conscious thought.

Another step that the agency took was to address the issue of headlamp misaim. Studies of headlamp aim have shown that as vehicles age, the amount of misaim increases. Misaim will cause glare; it will also cause loss of seeing distance. Thus, in March of 1997, the agency implemented a final rule based on a negotiated rulemaking intended to reduce the number of vehicles with misaimed headlamps. The rule reflects the consensus of the negotiated rulemaking concerning the improvement of headlamp aimability performance and visual/optical headlamp aiming. This committee was composed of representatives of federal and state governments, world-wide motor vehicle industry, industry consensus standards bodies and consumer interest groups.

The new rule established improved headlamp aiming features that will provide more reliable and accurate aiming, and help vehicle operators to more easily determine the need for correcting aim. As the number of vehicles on the road with these features increases, the number of vehicles with misaimed headlamps should decrease. This should help to moderate some of the aim-related glare problems.

While this action results from NHTSA's authority to regulate new motor vehicles sold to the public, NHTSA does not regulate motor vehicles in use. The states have that responsibility. Thus, it is the states that have the authority to regulate the safe condition and operation of motor vehicles in use. Headlamp aim and condition inspection is an area that is addressed by many states. However, many states do not have periodic motor vehicle inspection, and even those that do, do not always inspect headlamps.

Complaints about headlamp glare also accompanied the introduction of halogen technology in headlamps that began in 1979. The public wrote about the blinding white lights in letters to the press and to NHTSA. As introduced, the halogen lamps, generally, were not intended to be more intense than non-halogen headlamps; their only distinguishing characteristic was that they were whiter in color than other headlamps in use. This occurred because the vehicle manufacturers were interested in using less energy, while achieving acceptable performance. The halogen lamps used about two-thirds of the energy of that of a non-halogen headlamp. Gradually, vehicle manufacturers chose to provide more performance oriented halogen

headlamps. Many halogen headlamps were made with better than average performance within the bounds of the federal safety standards on headlighting intensity. The complaints about halogen headlamps ceased fairly quickly, however. This may have been because of their widespread use and subsequent lack of distinguishing characteristics. By about 1985, the majority of new vehicles were halogen equipped.

Now, with the introduction of another new technology for headlamp light sources, HID and ''look-alike'' halogen bulbs, combined with the increased popularity of LTVs, and the upswing in auxiliary lamp use, citizens have begun to complain about headlamp glare again. The agency has received hundreds of letters regarding glare from the new ''blue'' headlamps on luxury cars, and about the glare from the ever increasing number of LTVs. Also, over the last three years, the number of glare complaints about fog and other auxiliary front-mounted lamps has increased substantially. This may be because of the significantly increased OEM installation of optional fog lamps and the similar increased aftermarket installations by the public on vehicles in use. This is accompanied by frequent misuse of these lamps: using fog lamps during conditions other than permitted by most states' laws. They are reported to be most often used at night in clear weather, and not under conditions of reduced visibility.

One critical issue regarding glare is whether it increases the risk of being in a crash. Given this renewed response to glare, complaints do not mention crash involvement, yet concern about that issue is expressed. While it is easy to say that there are few, if any, crashes that are documented to have been directly caused by nighttime glare from other vehicles, it may not be totally representative of the relationship between glare and crashes.

The drivers' dependence upon artificial lighting and the lesser field of view at night are factors that contribute to this greater safety risk. In these circumstances, glare, whether at the levels that are annoying or disabling, increases the stress for drivers. Increasing stress for drivers in a more dangerous nighttime environment has adverse safety consequences, even if those consequences can not be precisely quantified. Many remedies for glare work by reducing the driver's vision of the driving environment; for example, switching mirrors to the nighttime driving position or averting one's eyes to the right shoulder instead of the middle of the road. It is reasonable to assume that reducing vision will lessen the amount of warning a driver has of particular risks, and that, in at least some cases, less reaction time will result in more crashes. Accordingly, NHTSA believes increased glare is something the American people are experiencing, and that this glare raises important safety concerns that need to be addressed thoughtfully and effectively.

2 Specific Issues

2.1 Glare from High Mounted Headlamps

Because LTVs, in general, are taller than passenger cars, their headlamps are generally mounted higher than those of passenger cars. This often occurs for styling or functionality purposes, the latter related to load carrying capacity and potential off-road use. Whenever a headlamp is higher than an observer's eyes, or higher than the height of a mirror, the more intense portions of the lower beam, those portions aimed straight to downward, can cause much greater glare than the portions of the beam aimed upward. This height differential creates a problem for operators of lower vehicles, when the more intense areas of the taller vehicle's headlamps, shine directly into the eyes of oncoming drivers or into the mirrors of preceding vehicles. The oncoming drivers experience transient glare because of the rate of closure speed, the quickly widening angle from the observer to the glare source, and the transient nature of hills and curves. Preceding drivers, however, can experience long term reflected glare and high interior brightness adaptation. They are more likely to have greater discomfort and disability, and thus, higher risk of a crash.

Consequently, the agency is interested in examining the issue of headlamp mounting height on LTVs that have a gross vehicle weight rating of 10,000 pounds or less, for their ability to produce glare, and for what potential solutions can be implemented to reduce the glare and its consequences.

In model year 2000, LTVs achieved about 50 percent of new vehicle sales, adding about eight million of them every year to the 170 million vehicle national fleet. With this steady increase, the average headlamp mounting height is increasing. This results in more and more glare events being experienced by drivers.

The most obvious way to address the issue of high-mounted headlamps is to reduce the permissible mounting height. As noted previously, the current maximum mounting height for headlamps is 54 inches. This limit was adopted in 1968 from existing state laws and consensus standards. However, this limit is so high as to leave the maximum mounting height essentially unregulated for most light vehicles. While that choice may have been acceptable when nearly all light vehicles were cars (so the range of actual mounting heights was within a relatively narrow margin), it may not be as appropriate as the light vehicle fleet becomes more evenly divided between cars and LTVs.

An independent organization, the SAE, is also looking at glare from higher-mounted headlamps. The SAE's Lighting Committee is the source for many automotive lighting standards in the United States (including many already incorporated in the Federal lighting standard) whether they are used voluntarily by manufacturers or referenced in state or Federal laws. The SAE Lighting Committee's Headlamp Mounting Height Task Force examined the issue of truck headlamp mounting height and its relationship to glare in 1996 and published a report on that effort (SAE J2328 OCT96). This report concluded that headlamp mounting height for trucks should be lowered, but the task force could not achieve a consensus for a new lower maximum mounting height. The task force discussed 900 mm and 1000 mm maximum mounting heights (as compared to the current 1370 mm maximum), but got no definitive majority for either alternate maximum limit. A minority opinion was that factors other than headlamp mounting height should also be studied, including beam distribution, headlamp output, rearview mirror reflectivity, and different glare limits. The 1996 report did forewarn that as headlamps incorporating new technology are implemented to improve seeing, there is the distinct possibility of increasing glare to others if headlamp mounting height is not lowered on trucks. The report concluded that the transportation industry and standards associations should consider significantly reducing the mounting height of headlamps on light trucks and MPVs.

The Headlamp Mounting Height Task Force then reconvened to further examine the issue of mounting height of light truck headlamps and glare. At the Fall 1999 SAE Lighting Committee meetings in Cleveland, Ohio, the Chairman of the Headlamp Mounting Height Task Force commented on data that showed a substantial increase in side mirror luminance, or glare, as the mounting height of the following vehicle's headlamps increased. The data show that historically the driving public has been exposed to between three and six lux in the side mirror with sealed

beam headlamps and early replaceable-bulb types using transverse bulb filaments. With the advent of axially-oriented bulbs in newer replaceable-bulb headlamps, the side mirrors are now illuminated to more than 50 lux when the headlamps are 12 inches higher than the mirror, a not uncommon difference between car mirrors and LTV headlamps. During this same meeting, other measures to limit glare from high-mounted headlamps were also discussed, such as using special automatic-dimming mirrors and altering headlamp beam patterns. The data discussed are not available; however, that task force is preparing a document that is intended to be published by the SAE sometime later this year.

Lowering the headlamp height is likely to be a very effective solution to the glare problem associated with higher mounted headlamps. One reason that might be brought forward to NHTSA by commenters for not pursuing this direct approach is that it might necessitate a redesign of the front ends of some LTVs which potentially imposes substantial costs if that redesign occurs sooner than a vehicle manufacturer had planned. However, such costs would be minimized if lower headlamp heights were one of the parameters that had to be accomplished during a scheduled redesign or refreshing of the front end of the vehicle. Another concern likely to be expressed by commenters is that the utility of the vehicles could be reduced if the redesigns needed to accommodate lowered headlamps resulted in significantly lessened load capacity or off-road capabilities. Significantly reducing the off-road capabilities of LTVs could make them less desirable to potential purchasers. NHTSA notes, however, that some Daimler-Chrysler LTVs, specifically the Ram pickup and the Durango sport utility vehicle, have headlamps mounted lower than some other manufacturers' LTVs and that this has been accomplished without reducing the off-road capabilities of those vehicles, to the best of NHTSA's knowledge. NHTSA also notes the new Model 2002 Chevrolet Avalanche, a five door/short bed sport utility vehicle has headlamps mounted below the turn signal lamps. The height of these lower beam lamps is about 890 mm (35 inches). This new vehicle does not appear to be hampered in capability or marketing value. NHTSA prefers a policy of making the vehicle type (LTVs) that caused the problem (glare for other drivers) achieve the solution, as long as it is done in a manner that considers the magnitude of the problem and the cost of the fix.

There are other approaches to addressing the problem of glare from high-mounted light truck headlamps, although none so intuitively appealing as the above. One approach is to make a special beam pattern for headlamps to be mounted above a certain height. This is an alternative that the SAE task force continues to consider. It is certainly possible to develop a beam pattern that would reduce the glare from current levels. It would appear to be a challenge, however, to develop a pattern that reduced glare at higher mounting heights while still providing acceptable light for illuminating the roadway. Another approach would be to adjust the aim of light truck headlamps down, thereby decreasing the distance in front of such a headlamp where it could cause glare for other drivers. Again, however, NHTSA would need to be assured that this aim adjustment would still result in acceptable roadway illumination for the LTV driver. A significant advantage of these approaches is that the costs for the new light with the altered beam pattern or the altered aim would be borne by the purchasers of the vehicles with the higher-mounted headlamps that were causing the glare issues for other vehicles.

Other approaches involve modifying cars so their drivers experience less glare from the higher-mounted headlamps on LTVs. As a policy matter, these approaches are less appealing since they oblige purchasers of vehicles that receive the LTVs' glare to bear the entire burden of addressing that glare problem. One approach in this category is to require enhanced mirrors on cars. Automatic electro-mechanical dimming inside mirrors have been available for decades as standard equipment on luxury models and as an option in many vehicles. More recently, there have been electronically dimming mirrors, typically called photochromic and liquid crystal automatic dimming mirrors. The advantage of these mirrors is that they reduce the intensities of incoming light at least as well as manual or electro-mechanical auto-dimming interior mirrors, but they also reduce glare reflected from the outside mirrors as well. The primary disadvantages are that these mirrors can add $100 or more to the cost of a new vehicle and they can lessen only the glare from following vehicles.

Another approach to addressing glare from following vehicles' high-mounted headlamps is to reduce the amount of light reflected off the interior surfaces of the car, particularly the instrument panel and the inside surface of the windshield. These changes would have the concurrent advantage of enhancing visibility during the day, when veiling glare may occur as light reflects from the inside of the windshield onto the instrument panel. Again, these costs would be borne by the glare burdened driver, and help only with glare from following vehicles.

A third indirect approach, would be to reduce light transmitted through side and rear windows on cars. Cars are currently required to have at least 70 percent light transmittance through all windows. Reducing the light transmission through the glazing would reduce glare, but vehicles that have reduced light transmission also have outside mirrors, usually larger ones, that will reflect glare quite handily. However, reducing visibility through side and rear windows would also reduce the ability of drivers to see through those windows when it is important to safety to see clearly and well. Tinted glazing can also reduce the effectiveness of mandated safety equipment like inside rear view mirrors and center high-mounted stop lamps. NHTSA would prefer to address glare without trading off safety performance in other areas.

2.2 Glare From High Intensity Discharge Headlamps

In the case of HIDs, we have received numerous complaints stating that these newer lamps produce excessive glare. Even though they are required to comply with all federal lighting requirements, HIDs are still being singled out as being troublesome glare producers for other drivers. The reason expressed by drivers is that the HID headlamps are brighter. This may be due to the spectral content of the produced light, the generally wider and more robust beam pattern, and/or their conspicuous color relative to other headlamps, or misaim.

In an effort to create a headlamp which provides better illumination, longer life, and a unique styling appearance, vehicle lighting manufacturers developed HIDs. They have been typically offered on higher end vehicles and can cost as much as $400 to $800 for the option. HIDs are unlike conventional halogen headlamps in that they operate more like street lamps. Instead of heating a tungsten filament, an electrical arc is created between two electrodes. This excites a gas inside the headlamp (usually xenon) which in turn vaporizes metallic salts. These vaporized metallic salts sustain the arc and emit the light used for the headlamp's beam. These lamps provide more light than that produced by halogen lamps and only use two-thirds

the power. As a result, they are more efficient, and because there is no filament to burn out, these bulbs are claimed to last for as much as 100,000 miles of driving time.

Although the agency has seen advertising and received many complaints claiming that the light produced by HIDs is twice or three times as bright as that which is produced by halogen lamps, laboratory measurement, made by various parties, do not support these claims. HID light sources (bulbs) typically have about two to three times the available light flux (volume) of halogen light sources, but because of such an abundance of light, the HID optical design does not necessarily need to be as efficient at collecting and distributing light as a halogen system. The HID beam pattern is certainly more robust, providing more even and wider illumination and the potential for better visibility and comfort. This performance results in more light on the road surface and more of the roadway being illuminated. However, this additional light is not supposed to be projected upward from the lamp toward other drivers' eyes. During inclement weather, when the road surface is wet, the additional volume of light can result in higher levels of light reflected off the road surface into other drivers' eyes. However, those who have complained about HID glare have not specifically reported inclement weather as the only time when there is a problem with HID glare.

Another factor that may be involved is the phenomenon that may have occurred with the introduction of halogen lamps in the early 1980's. Drivers are attracted to headlamps that are different colors than would normally be seen. As such, the drivers may look directly at oncoming headlamps during driving to see the unfamiliar item. This is something that they do not normally do. Initial halogen headlamp introduction elicited some glare complaints, even though the first halogens used were actually very similar in performance to the standard non-halogens headlamps. The only marked difference was the color of the halogen headlamps. If this is the case now, one would expect glare complaints about HIDs to stop when drivers become familiar with the HID color. However, NHTSA is aware of no studies or evidence to suggest that this theory is correct.

Another factor that may lead to the perception that HIDs are significantly brighter than halogen lamps is that human eyes may be more sensitive to bluish-white light of HIDs than to yellowish-white light of halogens. When observing some HIDs, it may seem that they are not emitting white light, as required by Standard No. 108. However, when observing the beam pattern projected on a white screen, HID headlamps that comply with our lighting standard will appear to be white with color separations occurring only at the extreme edges of the pattern. Non-halogen, halogen, and HID light sources appear to be different colors to observers. Non-halogen lamps appear to be yellow when compared to halogen lamps, and halogen lamps appear to be yellow when compared to HIDs.

In a recent study by the University of Michigan Transportation Research Institute (Flannagan, M. J.; 1999, ''Subjective and Objective Aspects of Headlamp Glare: Effects of Size and Spectral Power Distribution,'' Report No. UMTRI–99–36, available in Docket Number: NHTSA–2001–8885–3) the differences reported between halogen versus HID lamps caused a small but statistically significant difference in discomfort glare noted by observers. However, it had no effect on disability glare. It is not known yet whether it is the difference in spectral power density of these headlamps, but this difference in the human eye's glare response to these different lamp designs is shown in that study.

HIDs are not just more white (having less yellow content and more blue content in the emitted spectrum), but the light is generated in a different manner. HIDs achieve light by having vaporized metallic salts participate in the electrical current flow through an arc in the bulb capsule. This is contrasted to a heated metal filament which gives a relatively even level of light at all colors in the spectrum, and thus achieves smoother white light. The HIDs blend of metallic salts is designed such that the different salts, emitting different colors of light with different energy levels, will complement each other when fully heated and electricity is passed through them, because each salt contributes various frequencies of light and at different levels of energy. The result is white light, but with a few relatively high energy spikes of light at very narrow bandwidths. These spikes are obvious in a mapping of the spectral power density of the light emitted. (See Docket Number: NHTSA–2001–8885–4, USA Today, June 7, 2001, ''Bright Lights, Big Controversy'' by James R. Healey, page 1, the side bar ''harsh blue light contributes to glare''). This comparison shows that the light spectrum of HIDs is not as smooth as the light from a heated filament in a halogen lamp. It is possible that our eyes are not necessarily reacting to the whiter light, but to the high energy spikes that rise above a background energy achieving the white light. If this is a cause for the UMTRI findings, it may be that a redesign of the HID system is necessary. However, this is just a theory, with no supporting data. NHTSA is initiating research to study all potential factors that may be causing HIDs to be an annoying lighting source.

2.3 Glare From HID Look-Alike Bulbs and Other Colored Headlamp Bulbs

The advent of HIDs on more expensive vehicles has spawned attempts at achieving halogen-based look-a-likes. These are achieved by using coated, tinted, filtered or otherwise altered glass capsules for the halogen headlamp bulbs that can be used in place of the OEM bulbs. Alternatively, aftermarket headlamp housings with similar coating, tinting and filtering are being sold as replacements for OEM headlamps. The goal of many of these bulbs is to emit light that is different than an OEM halogen headlamp bulb, while attempting to maintain a headlamp's legally complying performance. The whiter light is offered as being closer in color to natural daylight, thus the claim is that drivers see better with the same amount of emitted light. This is not unique in motor vehicle lighting history; in fact, it is the same claim and intent as accompanied the 1929 Tung-Sol Blue-Wite ™ headlamp bulb. The yellow variants of colored bulbs are intended to be more useful in wet weather where the color, still measured to be white, is more yellow than OEM halogen bulbs. The intent is to offer a color of light less likely to be reflected back from precipitation and fog. At the other extreme of colored aftermarket bulbs, are those that are very blue or multicolored. The multicolored bulbs are the result of many different colors being emitted by the bulb in various directions, instead of white light being emitted in all directions as occurs in normal halogen bulbs.

Generically categorized as ''blue'' bulbs, all of these aftermarket bulbs have become popular among some drivers, either because the bulbs produce the look of a more expensive vehicle at a fraction of the cost, or claims of improved visibility. Many of the bulbs are from well known bulb manufacturers, others are from less familiar companies and importers. Depending on the make and model of bulb desired, some are sold by auto parts stores and mass merchandisers, others are sold by specialty auto accessory stores and through the

Internet. While there are no reasons to believe that all such bulbs cause headlamps to perform badly, many such bulbs do just that, as explained below.

Designing original equipment headlamp bulbs is a precise science, fraught with many design compromises in order to achieve the desired balance of energy usage, service life, emitted light and robust optical images of the filament. In general, headlamp bulb designs take years of thoughtful work in consultation with the designers of headlamp optics. The OEM bulb design is standardized and codified by industry consensus in SAE and International Electrotechnical Committee (IEC) standards so that all bulb manufacturers can build and sell bulbs with the expectation that they will perform in a safe and satisfactory manner in all headlamps in service. This standardization is incorporated into Federal Motor Vehicle Safety Standard No. 108, Lamps, reflective devices and associated equipment (FMVSS 108) by referencing information about each bulb. This information is in Docket Number: NHTSA–98–3397.

When changing the basic design of a headlamp bulb the way that placing a coating, filter or tinting can, the results can range from just color changes to reducing the emitted volume of light from a headlamp by almost half. For example, certain kinds of filters and coatings, while having the effect of reducing yellow light emission, are sometimes also very reflective. The result is that, instead of most of the light coming from the filament directly through the glass capsule and being used by the headlamp's optical design to have a focused beam down the road, the light bounces once or twice off the inner wall of the bulb. This causes strong images of the filament to be emitted from the capsule in directions and intensities never possible in the standardized OEM design. Because headlamps are designed to use standardized bulbs, the lighting performance of the headlamp could be markedly different, both impairing seeing down the road and causing others to have undue glare, when a modified, non-standardized bulb is substituted. Such poorly designed bulbs may also be a reason for the public's glare complaints.

In contrast, if the bulb designer uses a more benign filter element, the inner bulb reflectivity may be substantially reduced or virtually eliminated. For a bulb that is intended to be whiter, less yellow light may be emitted, giving the light a whiter, even bluish light, but still white light as defined in various industrial and legal standards. To assure that this bulb emits the equivalent and correct volume of light compared to an OEM version, the filament design must be subtly changed, but not so much so that wattage increases above the acceptable limits required of a standard bulb. These careful changes may continue to make the bulb interchangeable with an OEM design without noticeable consequence other than whiter light.

Besides replacing the OEM bulbs with bulbs with the characteristics described above, it is possible to purchase whole headlamps and replacement lenses for those that are replaceable, that are tinted. Under our standards, these must comply, with our lighting standard but again, the blue, or other color, tinting may have similar adverse disturbing and disabling glare effects.

Another disturbing trend in this look-a-like phenomenon is the substitution of OEM filament headlamp bulbs with aftermarket HID conversion bulbs. The desire is to achieve the look and achieve the more robust performance of HIDs. While not designed to be interchangeable, some aftermarket companies are substantially altering the HID bulb bases or providing adapters so that the HID bulbs can be inserted in headlamps designed for filament bulbs. The consequence of making these substitutions is to adversely affect safety. Filament headlamps are optically designed for the volume of light and filament placement and other critical dimensions and performance that OEM filament bulbs have. The HID conversions result in two to three times the volume of light and potentially imprecise arc placement. Such conversions often result in beam patterns that behave nothing like the original filament beam pattern, cannot be reliably aimed, and have many times the permitted glare intensity. In informal conversations with persons who have tested such conversions, the light intensity on one at a point aimed toward oncoming drivers was 22 times the allowable intensity limit. Another lamp was more than 7 times too intense. With poor HID bulb and arc placement, the glare intensity could be significantly worse. Thus, the use of these conversions could be yet another source of the glare problems about which many drivers have complained.

Regarding bluer light achieved by these filament bulbs, recent research (Sullivan, J.M. and Flannagan, M.J.: ''Visual Effects of Blue-Tinted Tungsten-Halogen Headlamp Bulbs'', Report No. UMTRI–2001–9, available in Docket: NHTSA–2001–8885–2) shows consistency with prior research, that discomfort glare ratings increase as the chromaticity moves toward the blue color range of the visible light spectrum. The authors also state that there is no evidence to show that target detection is enhanced with such blue colored headlamps, either in direct viewing or peripheral viewing of illuminated targets. This, essentially, shows that there likely is an inherent disbenefit from the use of such blue bulbs and headlamps that are intended to change the color of light emitted from headlamps. While one might assume that this also applies to the bluer HID powered OEM headlamps, the authors did not study this, nor speculate about it.

2.4 Glare From Fog Lamps, Driving Lamps, and Auxiliary Low Beam Headlamps

Fog lamps, driving lamps, and auxiliary low beam headlamps are lamps used in addition to the normally required headlamps. These lamps have been identified in state laws for decades as being allowed to be used under certain conditions of visibility. Generally, as defined in SAE standards, fog lamps have a wide even beam, less intense than a low beam, and intended to be mounted low to shine out under blankets of fog hovering near the ground, and in other conditions of reduced visibility such as rain, snow and dust. Properly aimed, fog lamps can be used to reduce the back scatter glare that often results from water droplets, snowflakes and dust particles illuminated by headlamps. The fog lamp with its downward aimed beam can reduce that veiling glare and permit seeing, albeit at much shorter distance, the roadway and important targets. Speeds, of course, have to be reduced under those conditions.

Driving lamps are lamps not intended for general driving, but are intended to supplement the upper beam headlamps. In essence, they are auxiliary upper beam headlamps. As such, they should never be used under conditions that do not permit the use of upper beam headlamps. Their beam intensity and aim are described in SAE standards and often referenced in state motor vehicle law.

The Auxiliary Low Beam Headlamp, is just that, a lamp similar in beam pattern and performance to a lower beam headlamp. It is intended to supplement the lower beam headlamp, more typically for turnpike driving, where the roadway has widely separated opposing lanes.

More and more passenger cars and LTVs are being equipped with auxiliary lamps these days. As an OEM option, the lamps, usually fog lamps, offer

different styling cues than the normal model vehicle to help differentiate it in the market. Also, the public may be interested in ''better'' lighting, because the number of both OEM and aftermarket installations is increasing markedly. Because of fog lamps' limited performance, they by design will not markedly improve seeing under normal conditions.

These auxiliary lamps are now becoming a source of complaint for glare. Often described as another set of headlamps, sometimes mounted lower, the public reports that these lamps seem to be used all the time at night. In fact, research has now documented that the public is right. Sivak et. al. reported that fog lamps were in fact used much more often than was appropriate for the conditions. In fact, most of the auxiliary lamps in the census were on regardless of the weather or visibility conditions, and most vehicles that had them installed had them in use (see Sivak, M.; Flannagan, M. J.; Traube, E. C.; Hashimoto, H.; Kojima, S. 1997, ''Fog lamps: Frequency of Installation and Nature of Use,'' No. UMTRI–96–31, available as Docket NHTSA–1998–8885–1).

This documented misuse of fog lamps in particular helps substantiate the complaints that NHTSA has been receiving. NHTSA has had complaints about fog lamp use for a while, but never so many as recently. As part of another rulemaking (63 FR 68233, December 12, 1998), NHTSA asked whether it should regulate fog lamps in general, because it was petitioned to regulate the geometric visibility of fog lamps as installed on motor vehicles. The response by commenters to this question was unanimous: yes, please regulate them. NHTSAs authority to regulate their safety will have the consequence of having a common national standard for them. Some of the commenters suggested waiting until the SAE and other international organizations achieved a harmonized, but updated version of a fog lamp standard. As a result of that request, NHTSA has been waiting several years for this to occur. However, there appears to be significant disagreement within both the SAE's Lighting Committee and the Groupe de Travail Brusselles, 1958[1], (GTB) as to what constitutes the current state of industry performance for fog lamps. For the foreseeable future, NHTSA has no expectation that a harmonized fog lamp performance consensus standard will be forthcoming from SAE or GTB. Because of the significant increase in complaints, NHTSA plans to propose action independently of outdated industry standards for fog, auxiliary and driving lamps to regulate these at the federal level.

2.5 Voltage to Headlamp

The voltage supplied to headlamps is one of many factors that establish the performance achieved. Safety Standard No. 108 specifies that headlamps be tested in a laboratory for the purposes of compliance at a test voltage of 12.8 volts D.C. The designers of headlamps and their filament type bulbs rely on this standardized voltage to assure that when anyone tests the headlamp at the standardized voltage, the lamp will perform as prescribed in the law. The lamp designers, in setting out to design the headlamp, use the standardized specifications set forth for the light source (bulb), determined at 12.8 volts and use them as part of the calculations for the prescriptions of the lamp's optical elements. The finished product is a lamp design that will be reliable, be capable of mass production, and meet the prescribed illumination performance set out in the Standard.

Unfortunately for drivers, the lamp performance experienced in the real world on their vehicles is not always the performance measured in the laboratory. The reason for this is that motor vehicles need to store vast amounts of electrical energy in its battery, and must have a electrical charging system to supply the energy that is stored. That charging system must provide varying voltages to charge the battery. Batteries expend some of that energy when used to start the vehicle's engine. To fully charge the battery, a voltage higher than that of the battery is necessary to return energy to the battery for storage and future availability. Depending on the state of charge of the battery, the ambient temperature, the quickness of restoration designed into the charging system, and other factors, the voltage of the vehicle's electrical system may be as high as 14 or 15 volts. On the other hand, it may be below 12.8 volts, if the ambient temperature is very low.

The effect on filament headlamps, taking into consideration the electrical resistance of the wiring to them, the headlamp switch, fuses, distribution panels, relays, and other devices often found in the headlamp circuit, is to reduce the voltage slightly when compared to the voltage at the battery. When the standardization of test voltage was conceived, it was intended to accommodate this vehicle electrical system variability by testing at the typical operating voltage of the headlamp, such that the lamp in a motor vehicle could be expected to operate most of the time with the same intensity as measured in the laboratory, and as specified for it.

Over the years, the design of motor vehicle electrical systems has evolved such that the amount of electrical energy necessary to operate the myriad of electrically powered devices, has more than quadrupled in many cases, from what was needed twenty or thirty or more years ago. With the advent of electrically powered steering and brakes, and complex environmental systems, the electrical energy need will continue to increase. To supply all this energy and to still charge the battery in a quick manner, the average voltage on vehicles has increased over the years. The consequence to many vehicles as stated above, is that for headlamps, the operating voltage is more likely to be somewhat above the specified test voltage.

In NHTSA's experience in measuring the voltage supplied to daytime running lamps, that voltage can be at least 14 volts. Others who have measured the voltage of headlamps have documented such high voltages, too. Even vehicle manufacturers have documented voltages higher than 12.8 volts. The effect on increased intensity as a result of varying voltages to filament type headlamps can be seen in the table below. It provides a multiplier for finding the new intensity when going from one voltage to a higher or lower one.

Candela specified at:	Factor to use to get candela at:				
	12.0 V	12.8 V	13.2 V	13.5 V	14.0 V
12.0 V	1.0	1.25	1.37	1.50	1.68
12.8 V	0.80	1.0	1.1	1.2	1.35
13.2 V	0.73	0.90	1.0	1.07	1.23

[1] The GTB is the organization of motor vehicle and lighting industry experts that advises the United Nation's rulemaking organization that is responsible for Economic Commission for Europe vehicle regulations.

Candela specified at:	Factor to use to get candela at:				
	12.0 V	12.8 V	13.2 V	13.5 V	14.0 V
13.5 V	0.67	0.83	0.93	1.0	1.14
14.0 V	0.60	0.74	0.81	0.88	1.0

In the case of U.S. headlamps, 12.8 is the specified test voltage in FMVSS No. 108. However, moving to the right in the row, one can see that if the vehicle voltage at the headlamp was only 12 volts, the headlamp's intensity would be only 80 percent of the specified intensity. Conversely, if the voltage measured on the vehicle were 14 volts, the headlamp would be operating at 135 percent of its specified intensity. The consequence for a driver in these two cases would be respectively, less light on the road and less glare to others, and more light on the road and more glare to drivers. Both situations are possible, depending on many factors as stated earlier. The possibility of newer vehicles having headlamps operating at higher than specified intensities is very real. For your vehicle, you would probably be more comfortable with the higher voltage and higher intensity. Drivers who oppose you probably would not appreciate that more robust performance.

3 Discussions

3.1 Discussion of Headlamp Performance in General

As was discussed above, the specification of a lower beam headlamp pattern slowly evolved over the last one hundred years. In the U.S., most of that work was done by motor vehicle lighting engineers and other automotive engineers and human factors scientists through the auspices of SAE. Today, that beam pattern as codified in FMVSS No. 108 is certainly more robust than it was in 1914, 1937, 1968, or 1985. The latest performance change in 1997 made the beam wider to lessen its sensitivity to horizontal misaim and to add a horizontally oriented cutoff delineating a sharp gradient between the higher intensity roadway light below and lesser intensity glare/sign light above. This cutoff was the cue for determining correct aim of the beam. Still, the fundamental aspects of specifying the beam's performance remained the same as it has for over the last hundred years: Individual test points in various places on an angular coordinate system with the axis originating at the headlamp lens center. The test point performance specified is applied to each headlamp, and the consequence is that each individual headlamp has the same general beam pattern. Yet, because lamps are made by many different companies, with differing customer needs, headlamps for different models of vehicles can have visually different beam patterns and performance, and still comply with the specifications set forth in FMVSS No. 108. Regardless of headlamp mounting height or separation distance, the Federal specification for the beam pattern is the same (and at the state level, the aim is almost always the same.) Thus, the result is what we now have in our vehicles-varying performance between vehicle makes and models, and even between makes of headlamps. The inherent philosophy that guided this evolution was absolute interchangeability and ease and quickness of replacement (to limit the time and miles driven before replacement of the failed lamp occurs). That was the basis for the 1937 decision to mandate sealed beam headlamps. All were the same so there would be only one model to find at the local service station. Considering how often headlamp bulbs, lenses and reflectors failed prior to 1937, this was a paramount safety concern. Until 1983, this was still the basic approach, although a few alternative sizes and shapes were introduced. Then the standardized replaceable bulb headlamp was introduced, allowing virtually any size or shape of headlamp, but using the universal, standardized, replaceable light source. It was this standardized, colorless bulb that was to be readily available at many stores, many of which were no longer service stations. The additional performance required of these headlamps was intended to assure that they had long term environmental resistance performance similar to what sealed beams had.

This move toward headlamp housings made specifically for an individual make, model and year of vehicle, together with substantially longer bulb life, led NHTSA to consider the potential for having a vehicle-based roadway illumination performance requirement. As envisioned, the vehicle as assembled, regardless of the type of headlamps, the type of vehicle, the mounting height or separation distance, would be required to illuminate the roadway in a certain manner, taking into account all the various important and often conflicting aspects of illumination versus glare. Such an approach would ensure that a vehicle's lighting performance would be evaluated just as it would be on the road when used by the public, and remove NHTSA from the business of specifying details of bulb and lamp design. With this approach, the challenge for vehicle manufacturers was that the performance had to be designed into the vehicle, rather than being added on at the end. Consideration of the vehicle's performance is required by most of NHTSA's safety standards, but not for compliance with many aspects of FMVSS 108. To specify the roadway illumination and glare performance of the whole vehicle would add design complexity and make compliance test procedures more expensive, and time-consuming. Both vehicle and lamp manufacturers have commented that a move toward a more systems-based approach toward vehicle lighting is not desirable because of these issues.

Given the dilemma raised above, NHTSA has not pursued this approach since investigating in the late 1980s. We would like your comment on the following questions:

Question 1: Given the vast amount of new technology in headlamp hardware and design, and in the design of light sources, is the long-standing method of specifying a single headlamp's performance by test points irrespective of its particular vehicle application, still an effective way to consider the problem of glare? Please explain.

Question 2: Is there any feasible alternative, such as having many more test points in and near the glare areas in the beam? Would applying intensity zones for glare be appropriate instead of points? Would a whole vehicle roadway illumination specification solve the problem, limiting glare regardless of lamp mounting height? Please discuss these and fully explain your reasoning for your choice or suggestions.

One consideration in deciding whether to proceed with regulations in this area is assessing how effectively an industry is addressing a problem. With respect to lighting generally, the vehicle and headlamp manufacturers' customers are most likely to complain if the lamps are not robust enough to allow good nighttime driving visibility. The glare from the lamps would not disturb the

customer of this vehicle or headlamp unless the lamps were so glaring that every passing vehicle flashed its lights. In these circumstances, the charge to designers could be to get as much light as possible from the headlamps and consider glare only to the extent necessary to comply with legal requirements. Alternatively, designers could be charged with producing lights that deliver good lighting performance but also consider how this headlamp design will affect others on the road.

Question 3: To what extent do lamp or vehicle manufacturers consider potential glare from headlamps beyond the glare limits set in the Federal lighting standard? What assessment is made of potential glare from lamps at points in the beam pattern that are unregulated? Are there any lamp or vehicle manufacturer corporate design guidelines that lamp or vehicle manufacturers use at unregulated points in the beam pattern? If so, please indicate what those guidelines are and explain why the manufacturer believes they are appropriate. Please provide examples of specific headlamp designs and identify changes that were made to the beam pattern specifically to reduce glare for other drivers, even though the beam pattern met the existing Federal standard.

Question 4: To what extent do vehicle manufacturers consider potential glare from headlamps as installed on their vehicles, even though this is not currently required by the Federal lighting standard? Please provide details on the assessment procedures that are used. Do vehicle manufacturers routinely evaluate prototype vehicles driven at night as occupants of other vehicles to evaluate the potential glare from headlamps? Are there other assessment methods used to assess the glare from the headlamps actually installed on the vehicle before vehicle manufacturers commit to a particular headlamp design? Please provide examples of specific recent or new vehicles and identify changes that were made to the headlamp beam pattern as installed on the vehicle, even though such changes were not required by the existing Federal standard.

Question 5: To what extent do lamp and vehicle manufacturers consider the reports and work by the Society of Automotive Engineers and other non-governmental bodies on the subject of glare in designing the performance of lamps on their vehicles? If so, please provide a list of the reports, papers and data that you use. Please provide specific examples of internal glare limits that have been adopted as a result these references.

Another approach to reduce glare that was mentioned earlier is correct aim. While NHTSA has made changes to improve the ability to correctly aim headlamps and to determine when aiming may be needed, such changes are not all that different from what has been used in Europe for decades. However, even with these features, European vehicles are also required to have headlamp aiming knobs or levers inside the passenger compartment so that drivers may move the headlamp aim downward to compensate for vehicle loading conditions. More recently, as a condition for allowing HID headlamps in Europe, these lamps must be installed only when automatic leveling (aiming) and automatic low beam washing and/or wiping is installed. European regulatory bodies have determined that automatic leveling and washing would help reduce the potential for glare from these headlamps that are specifically allowed to have higher beam performance than current halogen headlamps. The rationale behind the automatic washing is that, in general, a lamp with higher luminance is more adversely affected by dirt on the lens, resulting in more light directed toward the glare zone. In the U.S., because HID headlamps have been designed to comply with the existing required intensity performance, and not some new, higher performance as in Europe, there appeared to be no need for manufacturers to seek changes to introduce HID headlamps into the market nor for NHTSA to prevent them from being introduced.

Question 6: Should the U.S. adopt the HID glare control measures of automatic leveling and washing that have been adopted by Europe? Please identify the data and analyses that support your views. What costs would be incurred to do so?

Question 7: Should the U.S. adopt the driver operated manual headlamp leveling for halogen and/or HIDs that has been the norm in Europe? Is there evidence that leveling devices are used (and used properly) by many drivers? What would the costs be from adopting these?

Another aspect of glare is whether NHTSA should reduce glare at the expense of seeing down the road. Comments and letters over the years have been mixed. Some people want ''better'' headlamps, meaning ones that will serve them better for seeing at night. Others state that the glare from headlamps is so bad that we should all be required to use the same headlamps that we had in the 1960's. As stated earlier, NHTSA and other governments, as well as lighting researchers have searched for the correct balance between roadway illumination and glare. The perfect balance is of course different for each roadway because of the variability in geometry, ambient light and other factors, for each person because of age, visual acuity and other factors, and for each vehicle because of lamp mounting height, headlamp aim and other factors.

Some lighting researchers have suggested that net visibility would be maximized if all drivers would use only upper beams. While this may sound incredible, it is based on findings that the increase in roadway illumination would provide greater benefit than the high glare from upper beams would take away. While this is an interesting observation, the driving experience at night would not likely be optimized, based on the volume of complaints of glare with current headlamps. This raises the issue of whether NHTSA's balance between glare and roadway illumination should move toward less glare even if that means less visibility of the roadway environment.

The average age of our driver population increases every year. Older persons' eyes are more sensitive to glare, yet simultaneously, such drivers need more light to see down the road.

Question 8: Because reducing glare might improve older persons' mobility, and improving roadway illumination may do so too, given the age trend, should the reduction of glare be a priority, even at the expense of some visibility?

Question 9: To what extent do medical problems with eyes that are associated with aging, such as cataracts, and the current medical procedures such as Lasik, reduce or improve resistance to glare effects?

A possible model for glare reduction would be to move toward the European beam pattern for headlamps. That headlamp beam pattern allows less glare than the current U.S. beam pattern, but it also offers less seeing distance and less visibility for road signs. NHTSA is not presently contemplating an adoption of the European standard because the roadway environment is quite different—Europe relies heavily on lighted signs, while the United States largely depends on vehicle headlamps to illuminate signs. Nevertheless, the U.S. beam pattern could move closer to the European beam pattern in response to concerns about glare.

Question 10: Is it reasonable for the United States to sacrifice some visibility at night to address the glare problems identified by the driving public? Would a move closer to the European headlamp beam pattern effectively address glare concerns? Please provide any data that

are available on the glare with European headlamps. What would be the effects on visibility at night from switching to a more European beam pattern with its downward aim? Please provide available studies on the comparative visibility of roadway and sign targets with the current European and U.S. headlamp beam patterns, and on the safety tradeoffs between visibility and glare, and what the safety and cost consequences of those tradeoffs are.

Question 11: What would be the cost impacts, if any, for lamp manufacturers if the U.S. headlamp beam pattern were changed for new lamps? Please provide a detailed breakdown of how that cost impact was estimated.

Question 12: Is it conceptually feasible to produce a viable beam pattern by retaining test points needed to ensure adequate sign visibility in the U.S. while moving to European values and test points to reduce glare for other drivers? If feasible, might this beam pattern be adopted as a global standard?

Question 13: Because NHTSA's funds for safety initiatives are finite and the agency must use its judgment in deciding which initiatives are the most appropriate, is it appropriate for NHTSA to initiate an effort to develop an updated balance between glare and roadway illumination from headlamps at this time? On the other hand, if NHTSA does not undertake such an effort now and the public's complaints about glare continue to increase, what are the likely consequences?

Question 14: If NHTSA begins such an effort, should the desired end be a new beam pattern with the rest of the headlamp portions of the lighting standard retained largely intact, or should the agency aim for a vehicle-based performance standard that evaluates the performance of headlamps as installed on the vehicle? With this latter approach, vehicle manufacturers would have much greater freedom in choosing headlamp location and attributes. The agency's goal could be to simply turn on the vehicle's headlamps and shine them on a screen, and assess the performance of the headlamps as they will perform when used and seen by the American public. What would be the impact on vehicle and headlighting manufacturers from such an approach?

3.2 Headlamp Mounting Height Issues

As noted above, the most direct way of addressing glare from light truck headlamps is to mandate lower mounting heights. As headlamps move higher, the most intense part of the beam moves closer to the height of mirrors and drivers' eyes in lower vehicles, typically cars.

Question 15: Is there a reasonable policy rationale for addressing the glare to drivers of lower vehicles from higher-mounted headlamps by requiring changes to the lower vehicles? Please articulate that rationale as clearly and succinctly as possible.

Assuming that the preferred approach is to address the problem on the vehicles with the higher-mounted headlamps, one might consider lowering the acceptable mounting height for headlamps.

Question 16: Has the current 54-inch maximum mounting height for headlamps ever forced a vehicle manufacturer to modify the design of a light vehicle because the headlamps would have been too high? Please provide some details on the design and indicate the height at which the headlamps would have been mounted.

Question 17: How often do ''refreshes'' and ''redesigns'' occur for LTVs? Please be specific as to the models and approximate sales volumes of the vehicles. For example, some LTVs such as SUVs appear to be on approximately the same styling/redesign cycle as passenger cars, while full-sized vans apparently are not. Please provide estimates of the costs that would be associated with lowering headlamp mounting heights if it were done during the normally-planned refresh or redesign over and above the cost of the refresh and redesign, and explain how those estimates were derived. Is there a lead time that would minimize the costs of lowering headlamp mounting heights on LTVs?

Question 18: Assuming that NHTSA were to mandate lower headlamps on LTVs, and that a time frame were specified that minimized the costs, are there other design considerations NHTSA should be aware of in reviewing the SAE report suggesting a limit of 900 or 1000 mm? For instance, would the headlamps necessarily then be so low that they would interfere with the ground clearance or the bumper performance of LTVs? Please provide as much information as possible to support or explain the answer.

There are two possible negative ramifications if the maximum allowable headlamp mounting height were lowered significantly, although the size of these negative ramifications is unclear. First, the ability to see retroreflective traffic signs could be modestly degraded. These signs depend on vehicle headlighting for their conspicuity and legibility. Second, detection distance will be modestly decreased. This could reduce the ability of vehicle operators to detect an obstacle in time to avoid hitting it.

In past research when the detection of objects was studied in comparison with the mounting height of the headlamps, there was a detection loss noticed as the mounting height was decreased. For passenger cars, the general findings have been that, for every one inch the headlamp is lowered, the detection distance is decreased by approximately ten feet. Lowering light truck headlamps five inches could result in a loss of fifty feet of roadway visibility. It should be noted that roadway visibility would still be greater than passenger car roadway visibility because the lamps may still be higher than passenger cars lamps. Also, light trucks do not necessarily have different stopping distances than passenger cars. Consequently, there may be no safety reason that would need to be considered in such a decision.

Question 19: Please comment on these and any other trade-offs of lowering the maximum mounting height. Is there a maximum permissible mounting height that would not significantly reduce the seeing afforded to vehicles with higher mounted headlamps, while significantly reducing the glare to drivers of lower vehicles? Because LTVs are increasingly being used as passenger vehicles, why should their seeing distance and stopping distance be different enough to make this a concern?

3.3 Discussion of HID Issues

HIDs are beginning to become more prevalent in many vehicles. Overseas, they constitute a much higher percentage of production than in the U.S. HIDs appear to have an advantage of providing a beam pattern that is broader, more uniform, and modestly more intense, especially to the sides. Some halogen-based lamps behave this way, also, but it is generally more difficult to make such robust headlamps with the limited volume of light flux available from halogen bulbs. On the other hand, the HID bulbs with up to two to three times more available flux (2800 to 3200 lumen versus 1200 to 2300 lumen for halogen), would seem to have an abundant volume of light available. Based on various technical papers about HID headlighting, the technology offers significant styling freedom, and is able to sacrifice efficiency and still achieve a robust beam because there is so much light flux available. As mentioned above, European rulemakers, concerned about such high available flux, impose upon HID headlamps the requirement that they must have automatic aiming and cleaning.

Also, NHTSA notes that HID light sources are being used for auxiliary lamps such as fog, low beam and

driving lamps that are just now appearing in the aftermarket, as well as for upper beams in OEM applications.

Question 20: Do HID bulbs have too much light flux available for the roadway illumination task? If so, please discuss why and what could be done to resolve this.

Question 21: How do HID headlamp lower beam patterns vary from halogen lower beam patterns? Do these differences necessarily result in higher levels of glare for other drivers?

Question 22: The agency is interested in receiving comments regarding human factors issues surrounding the use of whiter (and/or bluer) light in headlamp systems, whether from HID or halogen bulbs, that has uneven spectral density emission performance as do HIDs. Have there been any studies done regarding HID light sources, whether with automotive, industrial, home or any other venue that addresses this uneven energy emission and its visual perception by people?

Question 23: One theory is that drivers are attracted to HID headlamps because of the newness or different appearance. This theory suggests that drivers then end up staring into the HID headlamps. Is this type of behavior documented relative to automotive or any other type of lighting event? Is there some period that is necessary for the public to adapt to a new lighting technology, whether on vehicles or otherwise (for example during the introduction of HID street lighting)? Are there any safety or other consequences from that adaption period?

Question 24: Are there any studies or data that support or disprove the claim that illumination that is closer to daylight in color provides vision improvements that could enhance driving safety in the myriad of driving conditions at night? Please discuss these.

Question 25: Are there any studies or data that support or disprove the claim that illumination that is more yellow (or any other color) provides vision improvements that could enhance driving safety during inclement weather in day or night? Please discuss these.

Question 26: Are the conventional photometry and color measurement methods specified in current industry consensus standards and national and international regulations appropriate for HID powered headlamps? Does it accurately predict glare or does it underestimate it? What alternative testing methods should be used?

Question 27: Has there been any research on achieving a more uniform spectral power distribution from HIDs that would be similar to that of a heated metal filament? If so, please provide references and discuss. What would be the safety and economic consequences of a rulemaking change that mandates a more uniform spectral power distribution?

Question 28: The UMTRI–99–36 study found that to be considered similar in glare perception by test subjects, the halogen lamp had to be about 1.5 times or 50 percent brighter than the comparable HID lamp. What would be the safety and economic consequences if HID headlamps were required to meet photometric intensity performance but limited to about two-thirds of that now permitted? Please explain how your answer is determined.

Question 29: It is well understood that raising the mounting height of headlamps raises the most intense part of the headlamp beam up to where it is closer to causing glare problems for other, lower drivers. It is also well understood that HIDs afford significantly more light flux and this greater volume of light raises the potential for increasing glare for others. Based on these generally understood glare parameters, one would expect that manufacturers would be very cautious about installing HIDs in higher-mounted positions, because the likelihood of glare would seem to be very high. Nonetheless, HIDs are now offered on several LTVs such as the BMW X–5, Mercedes Benz ML series and in previous model years, the Oldsmobile Bravada. To allow us to better understand the current practices of manufacturers of trucks having HID headlamps as standard or optional equipment, What were the analyses of glare that you considered when deciding to use HIDs in these higher-mounted lamps and why did these analyses lead you to conclude that glare from these lamps was acceptable? Please provide copies of these analyses.

Question 30: Given that HID light sources are being used in non-headlamp applications such as fog, auxiliary low beam and driving, and for OEM upper beam, should NHTSA regulate any or all exterior lighting devices that use HID light sources on motor vehicles? If so, should the regulated aspects be the same as those required for the currently required lighting devices, or should these requirements be different, more constraining or less constraining. Which lighting devices should have the highest priority to regulate first?

3.4 Discussion of Glare from HID Look-alike Bulbs and Other Colored Headlamp Bulbs

NHTSA has regulated headlamp bulbs since about 1983 by standardizing their interchangeability performance. Until about three years ago, colored bulbs other than those used for amber turn signal lamps were generally not available to the public. With HIDs, this changed. The specifications for halogen and HID light sources (bulbs) collected in NHTSA's public docket (NHTSA–98–3397) list a myriad of necessary interchangeability details including capsule coatings that are necessary for proper operation. One such coating is called a bulb cap or capsule cap or black cap. One of these was present on the very first bulb introduced in FMVSS No. 108 for headlamp use in 1983. It reduces glare by preventing light from the filament from being emitted toward the headlamp's lens. While not essential for all headlamp designs, the majority of those using this first bulb needed such a coating and bulb types designed specifically for low beam use almost universally have such a black cap.

Since 1983, many other interchangeability specifications for many other headlamp bulbs have been introduced into federal law. Many have black caps. Until recently, none had any other specified coating, filter, tinting or shielding. There are two types of bulbs, HIR1 and HIR2, that have special durable infrared reflective coatings on the bulb capsule. These coatings exist to make the bulbs more efficient at producing light; focusing back on the filament heat energy that would otherwise be lost. This insulating effect permits the filament to operate at a higher temperature while using less electrical energy. Also there is an HID bulb that has a coating, dissimilar to a traditional black cap, but serving the same function. None of the listed bulbs have had any other coatings specified.

Because coatings, filters, tinting, and shielding can adversely affect the light emission of bulbs, these, of necessity, have to be part of the original specification of a newly introduced headlamp bulb. There are two reasons for requiring these to be included with the bulb's original specifications. The first is so that in designing a headlamp's optics, headlamp designers can rely on the fact that bulbs sold for this headlamp will achieve the performance designed into it and required of it by FMVSS No. 108. The second is so that the headlamp will continue the same safe performance when replacement bulbs are purchased.

Any changes to the original specification for a bulb that can affect the interchangeability performance can cause headlamps to perform poorly, such as emitting not enough roadway illumination or too much glare and having beam shape changes. As with

photography and the use of filters to alter photographic images, coatings, filters, etc., that alter the image of the bulbs filament will change headlamp performance. Coatings, filters and etc., can change the color of light, the intensity, the sharpness of filament image and, in some cases, make multiple images of the filament, appearing much like a double or triple exposure in a photograph. Any of these alterations could adversely affect a headlamp's performance.

Marketers of auto parts began to sell colored headlamp bulbs to allow vehicles to appear to have the latest HIDs, at an affordable price. These bulbs began to show up on cars and trucks in early 1998, shortly after the introduction of HIDs on more expensive cars. Having noticed this, NHTSA lighting engineers who regularly participate in SAE Lighting Committee meetings asked committee members to discuss the science, engineering, optics and other aspects of these new bulbs. Those engineers were mostly ignorant of the existence of those bulbs in the U.S. market. Upon being shown one of the suspect bulbs, all were surprised by the orange metallic interference coating that was present on the entire surface of the bulb capsule, because they did not believe that it would allow a headlamp to perform properly. During that meeting, a test was performed on the bulb in a headlamp, comparing it to the OEM bulb for the headlamp. When set up in a photometry laboratory, the colored bulb reduced peak intensity in the seeing light area of the beam by two-thirds, and markedly increased the glare intensity in the area where preceding and oncoming drivers' eyes are typically located and the total volume of light emitted by the headlamp dropped by almost half. The beam emitted using the colored bulb, shining on a white measuring screen in the lab, showed a broad array of colors, ranging from white near the hot spot to reds, greens, golds, blues and magentas, in vast areas of the beam. It was remarkably different than the performance of an OEM bulb. While the laboratory at which the meetings were held did not test the colored bulb/headlamp combination for compliance with FMVSS No. 108, the plot of its intensities implied that it was incapable of complying. The plots of this testing of the head-lamp with the OEM bulb versus the colored one may be seen in Docket NHTSA–2001–8885–6.

Since that time, NHTSA staff have asked and worked with SAE and other international organizations to develop a test procedure for objectively determining when a coating, filter, etc., would change a bulb's performance such that it would be unacceptable from a bulb/headlamp interchangeability and performance perspective. Since that first meeting, the organizations have worked together to discuss the issue and potential methods to deal with it. A consensus test procedure and performance criteria have been developed that could be added to the specifications of headlamp bulbs. This would help to ensure that the color separations and the resulting multiple filament images would be minimized enough to provide a headlamp with uniformly strong white colored images of the filament and not introduce headlamp performance problems. The first formal proposal of that procedure was provided to the United Nations Economic Commission for Europe's Working Party on Lighting and Light Signaling. That procedure and its supporting information is provided in Docket NHTSA–2001–8885–5. Such a procedure, when used in the development of a new bulb should markedly help to reduce the introduction of glare and vision loss that might otherwise occur from the addition of coatings, filters, etc. Thus, if the specification of a coating and the use of this test were to be added to an existing bulb's specification as an optional method of building a complying bulb, coated bulbs might be readily evaluated to ensure that there would be no adverse effects on a headlamp's performance.

Based on the work done to date by SAE members and their associates, it appears to be possible to have bulbs with coatings that provide whiter light and still achieve satisfactory headlamp performance even though none are specifically referenced by FMVSS No. 108. For years, under the provisions of Part 564, manufacturers of bulbs have had the opportunity to amend the original specifications of a headlamp bulb. This opportunity comes with the proviso that any adverse consequences of the amendment would be the responsibility of the manufacturer making the amendment. In this case, such an amendment could provide for an option that is a colored version (but still achieving the defined white light) of the original design. Such an amendment to a bulb's specifications would clarify that a coated version of an OEM bulb could be built and certified under FMVSS No. 108. The potential for such amendments that would be submitted by manufacturers wishing to sell coated bulbs has been discussed at numerous SAE meetings in the U.S. and at numerous GTB Meetings and at the Working Party for Lighting and Light Signalling (GRE) meetings overseas as mentioned and referenced above. However, possibly because of the proviso regarding the responsibility for the amendment, no manufacturer has taken the opportunity to use it to standardize any coated, filtered, tinted or colored bulbs.

Question 31: Given the concern of commenters that ''whiter'' and ''bluer'' mean more glare, should any halogen bulbs be permitted to have emitted light with altered color that is different than that emitted by a heated wire filament through a colorless, unfiltered, uncoated glass or quartz bulb envelope?

Question 32: Alternatively, and less restrictively, should NHTSA reduce the allowable tolerance for the measurement of color within the defined definition of the color white such that bulbs will emit color traditionally provided by halogen bulbs with colorless, coating-less, filter-less capsules? Would the procedure proposed to the United Nations Economic Commission for Europe's Working Party on Lighting and Light Signaling Docket (see NHTSA–2001–8885–5) be a reasonable one? Would this test performance resolve all performance problems associated with coatings, filters, tintings, and shields that are not part of the original specifications?

Question 33: What safety value do any of these colored bulbs have? If there are any safety claims made, please provide the data and studies that substantiate those claims. If there are safety claims, provide an analysis of how those claims offset the possible disbenefit of increased glare.

Question 34: If there are substantiated safety claims that overwhelmingly offset the glare disbenefits, should NHTSA mandate these colored bulbs, or just allow them? Would mandating these bulbs ensure greater safety benefit to the public than the public pays in differential cost for these versus uncolored bulbs?

Question 35: If there are no substantiated positive or negative safety claims, should NHTSA prohibit these colored bulbs? What justification is there for being so performance or design restrictive?

Question 36: Given the results of recent research documented in UMTRI 2001–9, indicating that discomfort glare ratings increase as the chromaticity moves toward the blue color range of the visible light spectrum, should NHTSA ban headlamp bulbs and headlamps that alter the color of the light emission?

Question 37: Should all replaceable light sources be designed to conform the specifications of the standardized OEM

light sources, regardless of whether they are to be used as original or replacement equipment?

Question 38: Because manufacturers appear to be reluctant to modify the standardized OEM design specifications to account for the advertised performance enhancements that some of the replacement light sources are claimed to have, should NHTSA restrict manufacturers ability to modify Part 564 submission information to simply those modifications that correct errors in previous submissions?

Question 39: Many states have restrictions on the use of lamps on motor vehicles that have appearance similar to lamps required for emergency vehicles, i.e., lamps that have the emission of blue or red light. Has the enforcement of these state laws been affected since the introduction of replacement light sources that have bluish or other non-permitted colors?

3.5 Discussion of Glare From Fog Lamps, Driving Lamp, and Auxiliary Low Beam Headlamps

Fog Lamps, Driving Lamp, and Auxiliary Low Beam Headlamps are governed by many states' laws. Often the state laws reference SAE performance and installation standards set for these lamps. Because state laws regarding the installation and use of these lamps are not consistent, motor vehicle manufacturers have publicly stated that NHTSA should regulate front fog lamps. Because of the complaints of glare, NHTSA has stated in the past that it is inclined to do that for safety reasons, pending the development of the world-wide harmonized front fog lamp standard. Complaints do not always specifically identify fog lamps as the cause of glare; complaints are often about extra headlamps. Because aftermarket sales of auxiliary lamps, including fog lamps, appear to be increasing, it is possible that some of the complaints concerning front mounted lamps are about auxiliary lamps other than front fog lamps. Currently, European and other regional regulations specifically deal with front fog, driving and rear fog lamps. In these, there is not an auxiliary low beam lamp defined; it appears to be uniquely North American.

Question 40: Should NHTSA regulate any of these auxiliary lamps? If so, which ones, and why?

Question 41: For fog lamps, should NHTSA adopt either or both of the existing SAE and the ECE performance requirements for this lamp? In the absence of any newer fog lamp standards, should NHTSA propose a new standard based on the recent, efforts of SAE and ECE? Should NHTSA propose switching, wiring, and aiming hardware performance that, to the extent possible, reduces the incidence of fog lamp abuse? Please provide support for your answers and recommendations.

Question 42: Should NHTSA regulate any of the other auxiliary lamps to minimize, to the extent possible, aberrant performance and misuse? If so, should NHTSA adopt either or both of the SAE and the ECE performance requirements for these lamps? In the absence of any newer auxiliary lamp standards, should NHTSA propose new standards? Should NHTSA propose switching, wiring, and aiming hardware performance, that to the extent possible, reduces the incidence of their abuse? Please provide support for your answers and recommendations.

3.6 Discussion of Voltage to Headlamp

Is there anything that should be done about the problem of higher than specified lighting intensity that is bound to occur on motor vehicles in service? Certainly, NHTSA testing the headlamp's illumination performance at a voltage higher than 12.8 volts would ensure that future designs of headlamps would operate in the real world at a performance level closer to their tested level. However, their performance would still vary because of the varying voltage present in any particular vehicle. Nevertheless, this solution would be a relatively inexpensive way to moderate the upward creeping intensity and attendant glare that it can produce.

Alternatively, providing a constant voltage to headlamps would make their performance be virtually the same as that achieved when they are tested. The effect would be that, regardless of the vehicle's performance, the headlamps would provide the intended illumination and the measured levels of glare. There would be an increase in vehicle purchase cost for this solution, however, because an electronic module that can perform this constant voltage supply would be required. The installed price of this module on a new vehicle would be similar to that of the modules used for many current daytime running lamps, typically less than $20.

Question 43: Should NHTSA require a standardized voltage be applied to headlamps when they are operating on motor vehicles in service?

Question 44: What is the actual cost of providing such solutions for bringing on-vehicle headlamp intensity back in line with what is specified for them in the laboratory? Provide an analysis of the source of these costs to justify your answer.

Question 45: What voltage levels will future vehicles provide to headlamps if left unregulated by FMVSS No. 108? Provide information and data to support your prediction.

Question 46: Because higher voltages also shorten filament lamp life markedly, what are the costs and benefits to the public from having headlamp bulbs last longer than they would otherwise? What are the cost savings to vehicle manufacturers from averting warranty costs that normally occur because of shortened bulb life? Are both of these savings more than the cost of providing a constant voltage to headlamps? Should NHTSA amend FMVSS No. 108 to require such constant voltage?

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This request for comment was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this request for comment and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. The agency anticipates if a proposal and ultimately a final rule should result from this request for comment, new requirements would apply to the applicable vehicles and items after the specified implementation date. The request for comment seeks to determine the ramifications of requiring a lower maximum mounting height of headlamps on passenger cars and multipurpose passenger vehicles. It seeks to learn more about claims and causes of glare, to determine whether any kinds of constraints on HID headlamps should be implemented. It seeks information on whether to specifically allow or prohibit purposefully colored headlamp bulbs. It seeks to determine whether and how to regulate auxiliary front and rear lamps that are intended or claimed to enhance safety under certain limited driving conditions.

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may

attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given at the beginning of this document, under **ADDRESSES**.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information that you do not want to be made public, under a claim of confidentiality, you should submit three copies of your complete submission to the Chief Counsel, NHTSA, at the address given at the beginning of this document under **FOR FURTHER INFORMATION CONTACT**. This submission must include the information that you are claiming to be private, that is, confidential business information. In addition, you should submit two copies from which you have deleted the private information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter that provides the information specified in our confidential business information regulation, 49 CFR Part 512.

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a proposed response to these glare issues, we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation *(http://dms.dot.gov/).*

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were ''NHTSA–2001–8885,'' you would type ''8885.''

(4) After typing the docket number, click on ''search.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. Although the comments are imaged documents, instead of the word processing documents, the ''pdf'' versions of the documents are word searchable. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: September 25, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–24430 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90–day Finding and Commencement of Status Review for a Petition To List the Lower Kootenai River Burbot as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a 90-day finding on a petition to list lower Kootenai River burbot (*Lota lota*) as an endangered or threatened species pursuant to the Endangered Species Act of 1973, as amended. We find that the petition presents substantial scientific or commercial information indicating that listing the lower Kootenai River burbot may be warranted. We are initiating a status review to determine if listing this population is warranted.

DATES: The finding announced in this document was made on September 14, 2001. To be considered in the 12-month finding for this petition, information and comments should be submitted to us by November 27, 2001.

ADDRESSES: Information, comments, or questions concerning this petition should be submitted to the Supervisor, Upper Columbia River Basin Field Office, U.S. Fish and Wildlife Service, 11103 E. Montgomery Drive, Spokane, Washington 99206. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Deeds at the above address or telephone (509) 893–8007.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species, or to revise a critical habitat designation, presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, we make this finding within 90 days of receipt of the petition and publish the finding promptly in the **Federal Register**. If we find that substantial information was presented, we are required to promptly commence a review of the status of the species involved. After completing the status review, we will issue an additional finding (the 12–month finding) determining whether listing is in fact warranted.

On February 7, 2000, we received a petition, dated February 2, 2000, from American Wildlands and the Idaho Conservation League requesting the emergency listing of Kootenai River burbot (*Lota lota*) in Idaho as endangered and the designation of critical habitat concurrent with the listing. Accompanying the petition was supporting information relating to taxonomy, ecology, biology, threats, and past and present distribution.

The petitioners requested listing for the Kootenai River burbot that occur only in Idaho; however, we believe that a consideration of an ecologically based delineation of the population is needed.

Our analysis addressed a population of burbot that is potentially isolated in the lower Kootenai River, but has the ability to freely migrate between Kootenai Falls in Montana and Kootenay Lake in British Columbia. In all further references to burbot in this potentially isolated portion of the Kootenai basin in Montana, Idaho, and British Columbia, we identify this fish as the lower Kootenai River burbot.

Burbot, also referred to as eelpout or ling, were first described in Europe by Linnaeus in 1758 (American Fisheries Society 1991). They are a cold-water, bottom-dwelling species and the only freshwater member of the otherwise marine cod family (Gadidae). Burbot are extremely elongate or eel-like with marbled body coloration from dark olive to brown on the back contrasted with brown or black; the sides are lighter than the back; and the belly is yellowish white (Simpson and Wallace 1982). Burbot have a distinguishing single slender barbel on the chin. In the lower Kootenai River, burbot can weigh up to 4.5 kilograms (10 pounds) and live up to 15 years (Vaughn Paragamian, Idaho Department of Fish and Game, pers. comm. 2000; Burbot Recovery Strategy [BRS], in draft).

Burbot distribution is circumpolar. In North America, the historic range includes a majority of mainland Canada and several northern States from coast to coast (Scott and Crossman 1973; Simpson and Wallace 1982). Burbot that occur in the Kootenai River basin exhibit three life history strategies in several potentially isolated groups. The burbot that constitute the lower Kootenai River population spend a portion of their life in the South Arm of Kootenay Lake, and then migrate up the Kootenai River during the winter months to spawn in the mainstem river or tributary streams in British Columbia or Idaho (an adfluvial life form, i.e., one that migrates from lake to river and tributary streams for spawning). Kootenai Falls in Montana, present for approximately 10,000 years, physically isolates this population of burbot from the population that occurs above the falls (Paragamian *et al.* 1999). Burbot above the falls are believed to spend their entire lives in the river system (a fluvial life form, *i.e.*, one that spends its entire life in the river or migrates from river to tributary streams for spawning). A burbot population also exists in Lake Koocanusa, a reservoir formed when Libby Dam was constructed near Libby, Montana, in the early 1970s. In the North Arm of Kootenay Lake is a remnant population of burbot that is believed to spend its entire life cycle within the lake ecosystem (lacustrine life form). A lacustrine population was also known to spawn in the West Arm of Kootenay Lake, but is now believed to be extirpated. Mixing is not believed to currently occur among any of these potentially isolated populations (Paragamian, pers. comm. 2000).

Genetic studies support the belief that the adfluvial burbot that occur in Kootenay Lake and Kootenai River in Idaho and British Columbia constitute the same population, and that they are genetically dissimilar and separate from the burbot above Kootenai Falls (Paragamian *et al.* 1999). Tagging and telemetry studies performed on burbot from Kootenay Lake and the Kootenai River in Idaho and British Columbia also support the conclusion that these fish are likely of the same population (Paragamian 1995a). In addition, none of the more than 400 burbot that have been tagged above Kootenai Falls have ever been documented moving downstream into Idaho or British Columbia (Paragamian *et al.* 1999).

Under natural conditions, burbot in the Kootenai River basin spawn under ice during the winter months in water temperatures below 4° C (39° F) (Simpson and Wallace 1982). The burbot of the lower Kootenai River that spawn in Idaho generally begin migrating up the Kootenai River in November and travel up to 120 kilometers (75 miles) to traditional spawning sites (Paragamian, in draft). Spawning commences in early February and lasts 2 to 3 weeks, as both gamete maturation and arrival to spawning sites are highly synchronous (Arndt and Hutchison, in draft; Eveson, in draft).

Most information suggests that river spawning burbot prefer low velocity areas in main channels or in side channels behind deposition bars, with the preferred substrate consisting of fine gravel, sand, or silt (Fabricius 1954 in McPhail and Paragamian, in draft; McPail and Paragamian, in draft). Spawning is also known to occur in small tributary streams and is generally believed to take place at night (Simpson and Wallace 1982; McPhail and Paragamian, in draft).

Female burbot are larger than males and, depending on their size, may produce between 50,000 and 1,500,000 eggs (Simpson and Wallace 1982). Male burbot typically reach sexual maturity in 3 to 4 years, with females maturing in 4 to 5 years (BRS, in draft). During spawning, burbot typically collect in a large mass referred to as a spawning ball, with one or more females in the center surrounded by many males (Simpson and Wallace 1982; McPhail and Paragamian, in draft). There is no site preparation during spawning, and eggs are broadcast into the water column well above the substrate. The eggs are semi-buoyant and eventually settle into cracks in the substrate. Newly hatched burbot drift passively in open water until they develop the ability to swim (McPhail and Paragamian, in draft). Young burbot initially select shoreline areas among rocks and debris for feeding and habitat security.

Burbot prefer cold water and, during summer months, move to the hypolimnion (lower zone of a thermally stratified lake) areas of lakes or deep water pools of large rivers (Simpson and Wallace 1982). Feeding is mostly done at night, with adult burbot feeding almost exclusively on fish. Young burbot feed on a variety of aquatic organisms, such as insects, amphipods, snails, and small fish (Simpson and Wallace 1982). Burbot are most active in the winter when they move great distances to spawn, but are rather sedentary during the non-spawning seasons.

In accordance with our distinct population segment (DPS) policy (61 FR 4721), three elements must be considered in decisions regarding the status of a possible DPS as endangered or threatened under the Act: (1) discreteness of the population segment in relation to the remainder of the taxon to which it belongs; (2) significance of the population segment in relation to the remainder of the taxon; and (3) conservation status of the population segment in relation to the Act's standards for listing. Criteria for all three elements must be satisfied to list a DPS.

Discreteness refers to the separation of a population segment from other members of the taxon based on either (1) physical, physiological, ecological, or behavioral factors; or (2) international boundaries that result in significant differences in control of exploitation, habitat management, conservation status, or regulatory mechanisms. Lower Kootenai River burbot may be discrete in that (1) they are physically isolated from other burbot in the Kootenai River by a natural barrier (Kootenai Falls) and unsuitable habitats between the two populations below the falls, and are believed to be behaviorally isolated from those that occur in the North Arm of Kootenai Lake; (2) they are genetically distinct from burbot above Kootenai Falls (Paragamian *et al.* 1999); and (3) they may be ecologically isolated in that they have a different life history (adfluvial) than those above the falls (fluvial) and in the lake (lacustrine).

Significance refers to the biological and ecological importance or

contribution of a discrete population to the species throughout its range. Examples of significance criteria used in our DPS analysis for burbot in the lower Kootenai River basin include (1) persistence of the discrete population segment in a unique or unusual ecological setting; (2) evidence that loss of the discrete segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of the taxon that may be more abundant elsewhere as an introduced population outside of its historic range; or (4) evidence that the discrete segment differs markedly from other populations in its genetic characteristics (61 FR 4721). Lower Kootenai River burbot may be significant in that (1) the loss of this potentially isolated population may cause a significant gap in its range in the U.S., as well as eliminate their only occurrence in Idaho; and (2) they differ genetically from burbot that occur upstream of Kootenai Falls in Montana (Paragamian *et al.* 1999).

The lower Kootenai River once supported a significant number of burbot and provided an important winter fishery to the region. Although declines in burbot numbers in Idaho and British Columbia had been documented as early as 1959, they were still considered relatively stable through the 1960s. Despite fishery regulations implemented in the 1970s, the burbot fisheries in the Idaho and British Columbia portion of the basin collapsed after the construction of Libby Dam in 1972. Only 145 adult burbot have been captured in the Kootenai River in Idaho and British Columbia since 1993 (Paragamian *et al.* 1999). Spawning was known to occur in many tributary streams in Idaho and likely occurred in the river (BRS, in draft). However, recent studies reveal scant evidence of burbot reproduction in Idaho, as no larval fish and only one juvenile fish have been captured since 1993 (Paragamian and Whitman 1999). Currently, the only tributary known to support spawning burbot is the Goat River, which is just north of the Idaho border in British Columbia (Paragamian 1995a; Paragamian, in draft).

Prior to the collapse of the lower Kootenai River burbot population in the 1970s, anglers reported catching more than 40 burbot a night during the winter using setlines. It was estimated that the annual harvest for the sport and commercial fishery was in the tens of thousands of kilograms or several thousand fish annually (BRS, in draft; Paragamian, pers. comm. 2000). However, the annual harvest of burbot between 1979 and 1983 was estimated at about 250 fish. In Kootenay Lake, the harvest of burbot in 1969 and 1970 was estimated to be 25,000 and 20,000 fish, respectively (BRS, in draft). These estimates represent harvest levels throughout Kootenay Lake and include the adfluvial and lacustrine lifeforms. Concurrent with the decline of burbot in Idaho was the decline in British Columbia and, despite numerous harvest regulations implemented in both Idaho and British Columbia, burbot continued to decline and both fisheries were closed in the 1990s.

The earliest record of burbot sampling by the Idaho Department of Fish and Game (IDFG), from the winter of 1957–58, showed that 199 burbot were collected with only a few days worth of effort (Partridge 1983; Paragamian, pers. comm. 2000). The nets were reported to be full of both young and adult fish. From 1979 to 1983, IDFG personnel captured 108 burbot. They concluded that the abundance of burbot was substantially less than in the 1950s, as the effort in 1979 (8 burbot captured) was similar to that in 1957–58 (199 burbot captured). In 1993, IDFG personnel began a follow-up study to determine the abundance, distribution, reproductive success, movement, and possible limiting factors on the population in the lower Kootenai River. Extensive sampling effort over the last 7 years has resulted in the capture of only 145 adult burbot at a rate of approximately 1 burbot per 30 net days of sampling (Paragamian pers. comm. 2000)

Declines in lower Kootenai River burbot appear to be most strongly associated with habitat modification resulting from the construction and operation of Libby Dam (Paragamian 1993; Paragamian *et al.* 1999). Temperature and flow changes that alter spawning patterns and poor fry survival due to a reduction in food productivity in the river are believed to be the primary threats to burbot (Paragamian 1993; Paragamian and Whitman 1998; Paragamian *et al.* 1999).

Libby Dam was built for power production and flood-water control in the early 1970s. Consequently, the seasonal characteristics of water flow and velocity of the Kootenai River have changed markedly. During the winter, flows are now 300 percent higher than natural levels (Paragamian, in draft). Paragamian (in draft) reported that as a result of power production peaking within any given day, discharge from Libby Dam can range from 113 to 765 cubic meters per second, depending on power demand. Prior to the construction of Libby Dam, the natural conditions of the lower Kootenai River in Idaho and British Columbia during winter months were relatively stable, with flows ranging from roughly 125 to 200 cubic meters per second. With wintertime flows being more erratic and greatly increased as a result of power peaking and flood control, the spawning migration of burbot is disrupted. This disruption is believed to reduce spawning fitness, stamina, and spawning synchrony, as well as gamete maturation (Paragamian, in draft).

Many studies (*e.g.*, Paragamian 1995a; Paragamian, in draft) since 1993 have determined that burbot movement up the Kootenai River during the pre-spawning migration is significantly greater during low flow test periods (113 cubic meters per second), which were designed to replicate pre-dam conditions, than when Libby Dam is being operated for normal water management and power production (383 to 510 cubic meters per second). The studies showed that once discharge was increased to 510 cubic meters per second after the test periods, burbot drifted back to where they were previously or even further downstream (Paragamian 1995a; Paragamian, in draft).

Laboratory studies have shown that even the largest burbot cannot maintain their position for more than 10 minutes in current velocities greater than 24 centimeters per second (Jones *et al.* 1974). Paragamian (1995b) determined that a discharge velocity of 24 centimeters per second in the lower Kootenai River near Copeland, Idaho, occurs when the discharge is approximately 255 cubic meters per second, indicating that when flows are greater than this, burbot may have difficulty maintaining their position or moving upstream.

In addition to flow change, winter water temperature has increased by 2 to 3°C (4 to 5 °F) since the construction of Libby Dam. This temperature increase is believed to influence the activity level and location of burbot during the pre-spawn migration. Prior to the construction of Libby Dam, many portions of the lower Kootenai River would freeze allowing burbot to spawn under ice in water temperatures between 1 and 3 °C (34 and 37 °F) (Becker 1983 in Paragamian 1995a). Lower Kootenai River temperatures are now 4 to 5 °C (39 to 41 °F) during the winter months and many sections no longer freeze over (Paragamian 1995a). It has also documented that once burbot did ascend the Kootenai River to spawning areas in Idaho, it was after the spawning season, and water temperatures were warmer (7 °C (45 °F))

than burbot prefer for spawning. In addition, behavior indicative of spawning was not documented. Paragamian (1995b) concluded that the prolonged travel time for ripe burbot and the disparity between prevailing water temperatures and preferred spawning temperatures may preclude spawning in Idaho. Since 1994, the examination of five female and ten male burbot (all mature) caught shortly after the spawning season in the spring has indicated all were unspawned (Paragamian, pers. comm. 2000).

The decline in the productivity of the Kootenai River and in Kootenay Lake following the construction of Libby Dam may also be linked to the decline of burbot. Sediment nutrients settle behind Libby Dam in Lake Koocanusa and reduce the nutrient loading to the river. Analyses of macrozooplankton in the lower Kootenai River indicated that there is a scarcity of important foods such as *Daphnia, Diaphanosoma*, and *Cyclops* (Paragamian 1995b).

Considering the available information, the lower Kootenai River burbot may be discrete and significant. In addition, the extensive information regarding the population's conservation status, suggests that the lower Kootenai River burbot may satisfy the criteria for listing as a DPS.

We have reviewed the petition and other available information, including published and unpublished agency reports, and information from our files. On the basis of this review, we find that there is sufficient information to indicate that listing the lower Kootenai River burbot as a threatened or endangered species may be warranted. Declines in lower Kootenai River burbot have been most strongly associated with the construction and operation of Libby Dam since the early 1970s. Discharges at the dam for power production and flood control have caused winter flows to increase by 300 percent. Increased water temperatures and decreased food productivity may also be factors associated with the dramatic decline of burbot. While regulatory mechanisms are in place to protect burbot from harvest in the Kootenai River in Idaho and British Columbia, and Kootenay Lake, no conservation efforts currently appear to be recovering the lower Kootenai River burbot population.

In the information provided, the petitioners state that the lower Kootenai River burbot are at significant risk and near demographic extinction, and requested that we protect them through emergency listing. We may issue an emergency rule when an immediate threat poses a significant risk to the well-being of a species. Although the lower Kootenai River burbot appear to be in danger of extirpation, we do not believe that the threats are so great that extirpation is imminent. Upon receiving the petition, we reviewed the available information to determine if the existing and foreseeable threats posed an emergency. Consequently, we determined that an emergency listing was not warranted at this time, and we sent a letter to the petitioners on April 7, 2000, documenting this decision. However, if at any time we determine that emergency listing of lower Kootenai River burbot is warranted, we would seek to initiate an emergency listing. The petitioners also requested that critical habitat be designated for this species. The designation of critical habitat is not an action that may be petitioned under the Act. However, if the 12-month finding determines that listing the lower Kootenai River burbot is warranted, then the designation of critical habitat would be addressed in the subsequent proposed rule.

Public Information Solicited

When we make a finding that substantial information exists to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information on burbot throughout the entire Kootenai River basin. We request any additional information, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the status of lower Kootenai River burbot. We are seeking information regarding historic and current distribution, habitat use and habitat conditions, biology and ecology, ongoing conservation measures for the population and its habitat, and threats to the population and its habitat. In addition, we request information relating to the designation of critical habitat for burbot in the lower Kootenai River.

Of particular interest is information regarding whether the lower Kootenai River burbot satisfies the criteria for listing as a DPS. This includes information on the discreteness and significance of the population segment. Discreteness is the separation of a population segment from other members of the taxon based on either (1) physical, physiological, ecological, or behavioral factors; or (2) international boundaries that result in significant differences in control of exploitation, habitat management, conservation status, or regulatory mechanisms. The significance of the population segment refers to the biological and ecological importance or contribution of a discrete population to the species throughout its range. For additional information concerning the listing of DPSs under the Act, please refer to our DPS policy (February 7, 1996; 61 FR 4721).

If you wish to comment, you may submit your comments and materials concerning this finding to the Supervisor, Upper Columbia River Basin Field Office, U.S. Fish and Wildlife Service, 11103 E. Montgomery Drive, Spokane, Washington, 99206. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold their home address, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, 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. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

References Cited

A complete list of all references cited herein is available on request from the Upper Columbia River Basin Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Scott Deeds, U.S. Fish and Wildlife Service, 11103 E. Montgomery Drive, Spokane, Washington, 99206.

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: September 14, 2001.

David B. Allen,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 01–23913 Filed 9–27–01; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 66, No. 189

Friday, September 28, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Privacy Act of 1974: New System of Records

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of a proposed new system of records.

SUMMARY: The Foreign Agricultural Service (FAS) proposes to add a new system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records systems maintained by the agency (5 U.S.C. 552a(e)(4)).

DATES: The new system will be effective without further notice on September 28, 2001, except for the proposed routine uses, which will become effective on November 13, 2001 unless comments are received that would result in a contrary determination.

ADDRESSES: Send written comments to the U.S. Department of Agriculture, FSA/HRD/PMBAB STOP 0595, Attn: Sally Reed, 1400 Independence Avenue, SW., Washington, DC 20250–0595.

FOR FURTHER INFORMATION CONTACT: USDA/FSA/HRD/PMBAB at (202) 418–9000.

SUPPLEMENTARY INFORMATION: The Child Day Care Assistance Records System will collect family income data from FAS employees for the purpose of determining their eligibility for child care assistance, and the amounts of the assistance. It also will collect information from the employee's child care provider(s) for verification purposes, e.g., that the provider is licensed. Collection of data will be by assistance application forms voluntarily submitted by employees.

USDA/FAS–5

SYSTEM NAME:

FAS Child Day Care Assistance Records System.

SYSTEM LOCATION:

Paper and electronic records will be maintained by the contractor, Federal Employee and Education Assistance Fund, Suite 200, 8441 West Bowles Avenue, Littleton, CO 80123–9501; as well as the U.S. Department of Agriculture, Foreign Agricultural Service, Budget Division, 1400 Independence Avenue, SW., Washington, DC 20250; and the Farm Service Agency, Human Resources Division, 1400 Independence Avenue, SW., Washington, DC 20250 (L Street location).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present and former employees of the Foreign Agriculture Service who voluntarily apply for child care assistance, their spouses, and their children who are enrolled in a licensed child day care.

(2) Child-care providers of these employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms for child day care assistance which contain personal information, including employee (parent) name, social security number, pay grade, home and work numbers, addresses, total family income, spouse's name and social security number, spouse's employment information, names of children on whose behalf the employee (parent) is applying for assistance, each applicable child's date of birth, information on child care providers used (including name, address, provider's license number and State where issued, day care cost, and provider's tax identification number), amount of any other subsidies received, and copies of employee's and spouse's IRS Forms 1040 and 1040A for verification purposes. Other records may include the child's social security number, weekly expenses, pay statements, records relating to direct deposits, and verification of qualification and administration for child care assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 106–58, section 643, and E.O. 9397.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Records may be released to agency employees on a need-to-know basis.

b. Relevant records relating to an individual may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of that individual.

c. Relevant information may be disclosed to the Office of the President for responding to an individual pursuant to an inquiry from that individual or from a third party on his/her behalf.

d. Relevant records may be disclosed to representatives of the National Achieves and Records Administration who are conducting records management inspections.

e. Records may be disclosed in response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding.

f. Relevant records may be disclosed to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where FAS becomes aware of an indication of a violation of potential violation of civil or criminal law or regulation.

g. Relevant records may be disclosed to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, relevant records may be disclosed if a subpoena has been signed by a judge of competent jurisdiction.

h. Records may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which FAS is authorized to appear, when:

(1) FAS, or any component thereof; or

(2) Any employee of FAS in his or her official capacity; or

(3) Any employee of FAS in his or her individual capacity where the

Department of Justice or FAS has agreed to represent the employees; or

(4) The United States, when FAS determines that litigation is likely to affect FAS or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or FAS is deemed by FAS to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

i. In the event that material in this system indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or by regulation, rule, or order issued pursuant thereto, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order, issued pursuant thereto.

j. Relevant records may be disclosed to respond to a Federal agency's request made in connection with the hiring or retention of an employee, the letting of a contract or issuance of a grant, license or other benefit by the requesting agency, but only to the extent that the information disclosed is relevant and necessary to the requesting agency's decision on the matter.

k. Relevant records may be disclosed to the Office of Management or the General Accounting Office when the information is required for evaluation of the subsidy program.

l. Records may be disclosed to a contractor, expert, consultant, grantee, or volunteer performing or working on a contract, service, grant, cooperative agreement, or job for the Federal Government requiring the use of these records.

m. Relevant records may be disclosed to child care providers to verify a covered child's dates of attendance at the providers' facility.

n. Records may be disclosed by FAS in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

o. Records may be disclosed to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of FAS rules and regulations, investigations and alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

p. Records may be disclosed to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures or other functions vested in the Commission and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

q. Records may be disclosed to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

r. Relevant records may be disclosed to the Internal Service in connection with tax audit and tax record administration, as well as suspected tax fraud.

PURPOSE:

To establish and verify FAS employees' eligibility for the child day care assistance program in order for FAS to provide monetary assistance to its employees.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information may be collected on paper or electronically and may be stored as paper forms or on computers.

RETRIEVABILITY:

By name; may also be cross-referenced to social security number.

SAFEGUARDS:

When not in use by an authorized person, paper records are stored in locked file cabinets or secured rooms. Electronic records are protected by the use of passwords.

RETENTION AND DISPOSAL:

These records will be maintained permanently until their official retention period is established by the Agency or the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Performance Management, Benefits and Awards Branch, FSA/HRD/PMBAB STOP 0595, 1400 Independence Ave, SW., Washington, DC 20250–0595.

NOTIFICATION PROCEDURE:

Individuals may submit a request on whether a system contains records about them to the system manager indicated. Individuals must furnish their full name and social security number for their records to be located and identified.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager indicated. Individuals must provide their full name and social security number for their records to be located and identified. Individuals requesting access must also follow the USDA's Privacy Act regulations regarding verification of identity and access to records (7 CFR part 1, subpart G).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should contact the system manager indicated. Individuals must furnish their full name and social security number for their records to be located and identified. Individuals requesting amendment must also follow the USDA's Privacy Act regulations regarding verification of identity and amendment of records (7 CFR part 1, subpart G).

RECORD SOURCE CATEGORIES:

Information is provided by FAS employees who apply for child day care assistance. Furnishing of the information is voluntary.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: September 20, 2001.

Ann M. Veneman,

Secretary, U.S. Department of Agriculture.

[FR Doc. 01–24317 Filed 9–27–01; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass Forest Plan Revision Supplemental Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to supplement an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, will prepare a supplemental environmental impact statement (SEIS) that evaluates and

considers roadless areas within the Tongass National Forest for recommendations as potential wilderness areas. The Record of Decision will disclose the Regional Forester's decision of whether to recommend lands on the Tongass National Forest for inclusion in the National Wilderness Preservation System. Those recommendations will receive further review and possible modification by the Chief of the Forest Service and the Secretary of Agriculture. The Congress has reserved the authority to make final decisions on wilderness designations.

DATES: A public mailing that outlines the project timeline and public involvement opportunities is planned for distribution in September 2001. The Draft SEIS is expected in January 2002 and will begin a 9-day public comment period. Public meetings will be scheduled during the 90-day comment period. The Final SEIS and Record of Decision are expected during the Summer of 2002.

ADDRESSES: Please send written correspondence to: Forest Supervisor, Tongass National Forest, Attn: Forest Plan SEIS, 648 Mission Street, Ketchikan, AK 99901.

FOR FURTHER INFORMATION CONTACT: Questions about the SEIS should be directed to Larry Lunde, SEIS Team Leader, 648 Mission Street, Ketchikan, AK 99901. (Telephone 907–228–6303 or e-mail *llunde@fs.fed.us*)

SUPPLEMENTARY INFORMATION: In Sierra Club v. Lyons (J00–0009), the U.S. District Court, District of Alaska ordered the Tongass National Forest to prepare a supplemental environmental impact statement that evaluates and considers roadless areas within the Tongass for recommendation as potential wilderness areas. The Court found that the Forest Service had violated the National Forest Management Act (NFMA) and the National Environmental Policy Act (NEPA) in the Forest Plan Revision by failing to consider any alternatives with new wilderness recommendations in the Revision Final EIS. The Forest Service will provide the relative contribution to the National Wilderness System in its analysis of the management situation, also included in the Court's order.

The Tongass Forest Plan Revision examined 110 inventoried roadless areas for potential wilderness recommendations. Each of the roadless areas was analyzed and results were recorded in Appendix C of the Analysis of the Management Situation (AMS). The SEIS will update Appendix C of the AMS and the Forest Plan Roadless Inventory Map to reflect current conditions. The 1997 Tongass Forest Plan will be used as a baseline for land allocation and to reflect the No Action alternative. A range of alternatives relative to wilderness recommendations for all roadless areas on the Tongass National Forest will be developed.

Opportunities for the public to participate in the development of the SEIS will be provided throughout the process. The Forest Service will use a combination of methods to engage and involve the public throughout the development of the SEIS. Methods include public mailings, establishment of an internet webpage specific for the SEIS, public meetings and the news media. The SEIS team will also use information from previous public input efforts related to wilderness and management of roadless areas on the Tongass National Forest. These include public comments on the 1997 Forest Plan Revision Draft EIS documents, as well as, public input on the 2001 National Roadless Area Conservation Rule and the National Forest Transportation Rule and Policy documents specific to the Tongass National Forest. The comment period on the Draft SEIS will be a minimum of 90 days from the date the Environmental Protection Agency (EPA) publishes the notice of availability in the **Federal Register**. A series of public meetings will be held during the 90-day public comment period. The Draft SEIS is projected to be filed with the EPA in January 2002.

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 draft environmental impact statements 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. NEDC,* 435 U.S. 519, 553, (1978). Environmental objections that could have been raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon v. Hodel,* 803 F.2nd 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 by the close of the 90-day comment period 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 in the final supplemental environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments during scoping and comments on the draft supplemental environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft supplemental environmental impact statement or the merits of the alternatives formulated and discussed in the statement. 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. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Requesters should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 7 days.

No permits are required for preparation of this SEIS.

The Regional Forester, Alaska Region of the Forest Service, Juneau, Alaska is the responsible official. The responsible official will consider the comments, response, disclosure of environmental consequences, and applicable laws, regulations, and policies in making the decision and stating the rationale in the Record of Decision.

Dated: September 14, 2001.

Beth Giron Pendleton,

Acting Deputy Regional Forester for Natural Resources.

[FR Doc. 01–24267 Filed 9–27–01; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a commodity and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 29, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each commodity or service will be required to procure the commodity and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and service to the Government.

2. The action will result in authorizing small entities to furnish the commodity and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and service are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Cheesecloth
8305–00–205–3558
NPA: Lions Services, Inc., Charlotte, North Carolina
Government Agency: GSA—General Products Commodity Center

Service

Janitorial/Custodial
Special Processing (Detention) Center
U.S. Immigration & Naturalization Service
Ramey, Puerto Rico
NPA: The Corporate Source, Inc., New York, New York
Government Agency: U.S. Immigration & Naturalization Service

Sheryl D. Kennerly,
Director, Information Management.

[FR Doc. 01–24343 Filed 9–27–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 29, 2001.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 27, August 3 and August 10, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 39142, 40672, 42198) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are added to the Procurement List:

Commodities

Envelope, Translucent
7530–01–354–3982
Soap Shipper
M.R. 431
Plumber's Helper
M.R. 1046
Salad Shaker
M.R. 11839

Services

Grounds Maintenance, National Advocacy Center, 1620 Pendleton Street, Columbia, South Carolina
Janitorial/Custodial, Andrews Air Force Base, Maryland
Janitorial/Custodial,
At the following Richmond, Virginia Locations:
1Lt Monteith USARC
Colonel Dervishian USARC
Richmond AFRC
Janitorial/Grounds Maintenance
At the Following Locations:
Calexico Border Station, 11150 Birch Street,
Calexico, California
El Centro HQ Section, 1111 N. Imperial Avenue, El Centro, California
Existing El Centro Station, 1081 N. Imperial Avenue, El Centro, California

Highway 111 Checkpoint,
Mile Marker 51/Niland,
Niland, California
Highway 86 Checkpoint, 100 Yards
South of Highway 78, Highway 78
and Highway 86, Niland, California

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–24344 Filed 9–27–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of Professional Associations

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), the Bureau of the Census (Census Bureau) is giving notice of a meeting of the Census Advisory Committee of Professional Associations. The Committee is composed of 36 members appointed by the Presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairperson of the Board of the American Marketing Association. The Committee advises the Acting Director, Census Bureau, on the full range of Census Bureau programs and activities in relation to their areas of expertise.

DATES: The meeting will convene on October 18–19, 2001. On October 18, the meeting will begin at 9 a.m. and adjourn at 5:15 p.m. On October 19, the meeting will begin at 9 a.m. and adjourn at 12:30 p.m.

ADDRESSES: The meeting will take place at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Maxine Anderson-Brown, Chief, Conference and Travel Management Services Branch, U.S. Census Bureau, Commerce, Room 1647, Federal Building 3, Washington, DC 20233. Her phone number is 301–457–2308, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The agenda for the meeting on October 18, which will begin at 9 a.m. and adjourn at 5:15 p.m., is as follows:

- Introductory Remarks by the Acting Director, Census Bureau, and the Principal Associate Director for Programs, Census Bureau
- Census Bureau Responses to Committee Recommendations
- Executive Steering Committee for Accuracy and Coverage Evaluation Policy Update
- 2002 Economic Censuses Update
- Census 2000 Update
- American Community Survey and Economic Analysis Update
- 2010 Census Planning—Next Steps
- E-Business Infrastructure
- Census 2000 Supplementary Survey Data Overview
- Services Sector Data: What We Have and What We Need
- Census 2000 Experiments—Results

The agenda for the meeting on October 19, which will begin at 9 a.m. and adjourn at 12:30 p.m., is as follows:

- Chief Economist Update
- Interviewer Refusal Aversion Training
- Promoting Business Response to the 2002 Economic Census
- Unit Level Models for Small Area Estimation: Applications to Census Adjustment of Small Areas and Small Area Estimation for the American Community Survey

The meeting is open to the public, and a brief period is set aside, during the closing session, for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer, at least three days before the meeting. Seating is available to the public on a first-come, first-served basis. Individuals wishing additional information or minutes regarding this meeting may contact the Liaison Officer as well. Her address and phone number are identified under this notice's **FOR FURTHER INFORMATION CONTACT** heading.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Chief, Conference and Travel Management Services Office.

Dated: September 21, 2001.

William G. Barron, Jr.,

Acting Director, Bureau of the Census.

[FR Doc. 01–24275 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Procedures for Supporting Documentation

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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)).

DATES: Written comments must be submitted on or before November 27, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, D.C. 20230 or via e-mail at mclayton@doc.com.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, (202) 482–0637, Department of Commerce, Room 6883, 14th & Constitution Avenue, NW, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

Exporters will retain in their files for a period of *five* years (1) certain supporting documents that previously accompanied the request for an export license and then were retained by BXA, and (2) all other records that they had previously been required to keep for two years. Also outlined are the procedures for returning unused or partially used import certificates, or their equivalent, to the foreign importer.

II. Method of Collection

Record retention and submission of documents.

III. Data

OMB Number: 0694–0064.
Form Number: Not applicable.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 5,924.

Estimated Time Per Response: 1 to 30 minutes per response.

Estimated Total Annual Burden Hours: 352 hours.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: September 25, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–24400 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Import Certificates and End-User Certificates

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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 (44U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 27, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, D.C. 20230, or via internet at MClayton@doc.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, (202) 482–0637, Department of Commerce, Room 6883, 14th & Constitution Avenue, NW, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION

I. Abstract

This collection of information is the certification of the overseas importer to the U.S. government that he/she will import specific commodities from the U.S. and will not reexport such commodities except in accordance with U.S. export regulations.

II. Method of Collection

Requests for information, copies of documents or requirements to send notifications submitted to BXA.

III. Data

OMB Number: 0694–0093.

Form Number: Not applicable.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 5,775.

Estimated Time Per Response: 15 minutes per response.

Estimated Total Annual Burden Hours: 1,144 hours.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collectionof 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 (including hours andcost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: September 25, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–24401 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–830]

Coumarin From the People's Republic of China: Rescission in Whole of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: In response to a timely request from petitioner, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on coumarin from the People's Republic of China (PRC). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 66 FR 16037 (March 22, 2001). This review covers one manufacturer/exporter of coumarin for the period from February 1, 2000 through January 31, 2001. Because petitioner has withdrawn its request for review, the Department is rescinding, in whole, its review of coumarin from the PRC in accordance with 19 CFR 351.213(d)(1).

EFFECTIVE DATE: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Abdelali Elouaradia, AD/CVD Enforcement Group III, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0197 or (202) 482–1374, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR part 351 (2000).

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** the antidumping duty order on coumarin from the PRC on February 9, 1995. *See Notice of Antidumping Order: Coumarin From the People's Republic of China,* 60 FR 7751 (February 9, 1995). The Department received a timely request from petitioner, Rhodia Inc., to conduct an administrative review pursuant to § 351.213(b) of the Department's regulations. On March 22, 2001, the Department initiated an administrative review covering one manufacturer/exporter of coumarin from the PRC, Jiangsu Native Produce Import & Export Corp., Ltd. (Jiangsu). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part,* 66 FR 16037 (March 22, 2001).

On June 20, 2001, petitioner timely withdrew its request for an administrative review of coumarin from the PRC for Jiangsu.

Rescission, in Whole, of Antidumping Duty Administrative Review of Coumarin

Pursuant to our regulations, the Department will rescind an administrative review, ''if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' *See* 19 CFR 351.213(d)(1). This section further provides that the Secretary may extend this time limit if the Secretary decides that it is reasonable to do so. See 19 CFR 351.213(d)(1). In this case, petitioner's withdrawal of its request for review was within the 90-day time limit. No other party requested a review of this order. Therefore, we are rescinding the administrative review of coumarin for the period February 1, 2000 through January 31, 2001. *See Memorandum for the File through Barbara Tillman, Director, from Elfi Blum, Case Analyst: Coumarin from the People's Republic of China; Rescission of Antidumping Administrative Review.* The Department will issue appropriate assessment instructions to the U.S. Customs Service (Customs).

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with 19 CFR 351.213(d)(4) and sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 24, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–24408 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–835]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Determination of Sales at Less than Fair Value.

EFFECTIVE DATE: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Patricia Tran or Robert James at (202) 482–1121 and (202) 482–0649, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments to the Tariff Act of 1930 (the Tariff Act) by the Uruguay Round Agreements. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 1, 2000).

Final Determination

We determine that certain hot-rolled carbon steel flat products from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act. The estimated margin of sales are shown in the '' Continuation of Suspension of Liquidation'' section of this notice.

Case History

The Department published the preliminary determination of sales at less-than-fair-value on May 3, 2001. *See Notice of Preliminary Determination of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from Taiwan,* 66 FR 22204 (May 3, 2001) (Preliminary Determination). In the Preliminary Determination, the Department collapsed China Steel and Yieh Loong (hereafter referred to as China Steel/Yieh Loong) pursuant to § 351.401(f) of the Department's regulations for purposes of calculating a weighted-average margin. For details of the Department's analysis, *see* the Memorandum to Joseph Spetrini from Patricia Tran, April 19, 2001, a copy of which is in room B–099 at the main Department of Commerce building. We gave interested parties an opportunity to comment on the Preliminary Determination. Since the April 23, 2001 signing of the Preliminary Determination the following events have occurred:

On April 23, 2001, China Steel/Yieh Loong submitted responses to the Department's April 17 and 18, 2001 supplemental questionnaires. After reviewing these responses, the Department concluded that they failed to adequately remedy or explain deficiencies in earlier responses. Therefore, the Department cancelled the sales and cost verifications of China Steel/Yieh Loong. *See* Letter to Peter Koenig from Robert James, Program Manager, Enforcement Group III, May 10, 2001.

On May 30 and 31, 2001, China Steel/Yieh Loong submitted additional responses to the Department's April 17 and 18, 2001 supplemental questionnaires. Pursuant to section 782(f) of the Tariff Act and 19 CFR 351.302(d)(i) the Department returned all documents due to the untimely nature of these submissions. *See* Letter to Peter Koenig from Robert James, Program Manager, Enforcement Group III, June 5, 2001.

On June 22, 2001, respondents and petitioners filed their case briefs in this matter; both parties filed rebuttal briefs on June 27, 2001. The Department published a postponement of the final determination for antidumping duty investigation on July 17, 2001. *See Notice of Postponement of Final Determination for Antidumping Duty Investigation: Certain Hot-Rolled Carbon Steel Flat Products from Taiwan,* 66 FR 37213 (July 17, 2001).

Although the deadline for this determination was originally September 17, 2001, in light of the events of September 11, 2001 and the subsequent closure of the Federal Government for reasons of security, the timeframe for

issuing this determination has been extended by four days.

Period of Investigation

The period of investigation (POI) is October 1, 1999 through September 30, 2000.

Scope of Investigation

For purposes of these investigations, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of these investigations.

Specifically included within the scope of these investigations are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of these investigations, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or, 2.25 percent of silicon, or, 1.00 percent of copper, or, 0.50 percent of aluminum, or, 1.25 percent of chromium, or, 0.30 percent of cobalt, or, 0.40 percent of lead, or, 1.25 percent of nickel, or, 0.30 percent of tungsten, or, 0.10 percent of molybdenum, or, 0.10 percent of niobium, or, 0.15 percent of vanadium, or, 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of these investigations unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of these investigations:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.,* American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to these investigations is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by these investigations, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping duty investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated September 19, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at *www.ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Use of Facts Available

On January 4, 2001, the Department issued its antidumping duty questionnaire to China Steel/Yieh Loong. On February 2, 2001, the Department received from China Steel and Yieh Loong the response to section A of the questionnaire. On February 15, 2001 and February 21, 2001, the petitioners filed comments on the section A responses of China Steel/Yieh Loong. On February 27, 2001, the Department issued a supplemental questionnaire for China Steel/Yieh Loong's Section A response. The companies submitted their responses on March 20, 2001. China Steel made additional submissions in follow-up to its March 20, 2001 response on March 21 and March 26, 2001.

China Steel/Yieh Loong filed their sections B, C, and D responses on February 26, 2001. On March 6, 2001,

petitioners submitted comments on the sections B, C, and D responses of China Steel/Yieh Loong. The Department issued supplemental questionnaires to China Steel/Yieh Loong regarding its sections B and C responses on March 15, 2001. On April 3, 2001, China Steel/Yieh Loong filed its supplemental sections B and C responses. However, China Steel's submission failed to correct the deficiencies the Department detailed in its supplemental questionnaire, *i.e.*, missing product characteristics and downstream sales, and Yieh Loong's submission failed to provide narratives and supporting documentation for all expenses and adjustments for its downstream sales. On March 16, 2001, petitioners submitted additional comments regarding China Steel's section D response. On March 21, 2001, petitioners filed additional comments regarding Yieh Loong's Section D response. The Department issued supplemental questionnaires concerning China Steel's and Yieh Loong's section D response on March 21, 2001. The Department received the responses to these supplemental questionnaires on April 9, 2001.

On April 17 and April 18, 2001, the Department issued its third questionnaire to China Steel/Yieh Loong regarding its sections B, C and D responses. In these questionnaires the Department, again, requested China Steel to provide missing product characteristics and downstream sales information. In addition, this was the Department's third request to Yieh Loong for its downstream sales' narrative and supporting documentation of all expenses and adjustments. On April 23, 2001, China Steel/Yieh Loong submitted responses to the Department's April 17 and 18, 2001 supplemental questionnaire. After reviewing these responses, the Department concluded that China Steel/Yieh Loong failed to adequately remedy or explain deficiencies in earlier responses, and failed to provide vital data previously required by the Department. Therefore, the Department cancelled the sales and cost verifications of China Steel/Yieh Loong. *See* Letter to Peter Koenig from Robert James, Program Manager, Enforcement Group III, May 10, 2001.

On May 30 and 31, 2001, China Steel/Yieh Loong submitted additional responses to the Department's April 17 and 18, 2001 supplemental questionnaires. Pursuant to section 782(f) of the Tariff Act and 19 CFR 351.302(d)(i) the Department returned all documents due to the untimely nature of these submissions. *See* Letter to Peter Koenig from Robert James, Program Manager Enforcement Group III, June 5, 2001.

As mentioned above, we determined that these two companies are affiliated under section 771(33)(E) of the Tariff Act. Further, China Steel and Yieh Loong were collapsed and treated as a single producer under section 351.401(f) of the Department's regulations for purposes of calculating a weighted-average margin. *See* Memorandum from Patricia Tran to Joseph Spetrini, April 19, 2001.

Section 776(a)(2) of the Tariff Act provides that, if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Tariff Act, use the facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Tariff Act provides that if an interested party, ''promptly after receiving a request from (the Department) for information, notifies (the Department) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information,'' the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Also, section 782(d) of the Tariff Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Additionally, section 782(e) of the Tariff Act states that the Department shall not decline to consider information deemed ''deficient'' under section 782(d) if: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Finally, section 776(b) of the Tariff Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994).

For the reasons discussed below, the Department determines that, in accordance with sections 776(a)(2)(B) and 776(b) of the Tariff Act, the use of adverse facts available is appropriate for the final determination for China Steel/Yieh Loong.

We determine pursuant to sections 776(a)(2)(A), (B), and (C) that China Steel has withheld information requested by the Department, failed to supply such information by the applicable deadlines and has significantly impeded this proceeding. In each of its three submissions China Steel failed to provide complete sales and cost questionnaire responses. In its initial and supplemental responses, China Steel failed to provide the information requested in the Department's January 4, 2001 antidumping questionnaire, the March 15, 2001 sections B and C supplemental questionnaire, and the March 21, 2001 supplemental section D questionnaires. Additionally, Yieh Loong failed to provide a narrative and supporting documentation for its downstream sales. In the next section, we discuss the particular deficiencies identified in China Steel/Yieh Loong's three responses. We note that China Steel/Yieh Loong never requested any modification of the reporting requirements under section 782(c). Indeed, it repeatedly told the Department that the missing information would be forthcoming. The Department informed China Steel/Yieh Loong that its submission was deficient, and provided it with specific deficiency questions which it failed to answer. Finally, pursuant to section 782(e) the Department finds that the sales information China Steel/Yieh Loong did provide, absent the missing sales information, was too incomplete to form a reliable basis for making a determination and that China Steel/Yieh Loong has not acted to the best of its ability in providing information.

Finally, in light of our finding that China Steel/Yieh Loong has not cooperated by acting to the best of its

ability, as evidenced by its failure to provide the information repeatedly requested nor to provide any proof that it was unable to provide such information, the Department has drawn an adverse inference in selecting the facts available under section 776(b).

Deficiencies in the Sales Response

For the reasons discussed below, we find that the use of facts available is warranted under section 776(a)(2) in light of the significant missing information from China Steel/Yieh Loong's sales responses. Our analysis of this sales response found deficiencies that preclude us from ensuring that products sold in the U.S. market are accurately matched to identical or most similar products sold in the home market. Without properly matching products sold in the U.S. and home markets, we cannot accurately identify similar matches and, as appropriate, calculate an accurate difference in merchandise (DIFMER) adjustment to account for the differences in the products being matched. Moreover, without accurate product characteristics, we are unable to assign costs with any degree of confidence and are, therefore, unable to determine if home market sales were made at prices below the cost of production. Ultimately, lacking the information in question, the Department is unable to calculate an accurate dumping margin which meets the requirements of the statute.

Since these functions are essential elements to a dumping analysis, we find that China Steel's responses cannot serve as a reliable basis for this preliminary determination. Specifically, China Steel/Yieh Loong failed to provide: (1) Complete and adequate affiliated parties' resale information; and (2) complete and accurate product characteristics.

1. Affiliated Parties' Resale

On January 4, 2001, the Department requested China Steel to provide affiliated parties' resale information if sales to affiliates constituted more than five percent of total home market sales. On January 19, 2001, China Steel requested that it be excused from reporting home market resales by affiliates. China Steel stated that sales to its affiliates, China Steel Global Trading Corporation (China Steel Global) and China Steel Chemical Corporation (China Steel Chemical), constituted less than five percent of total home market sales. On January 29, 2001, the Department replied, stating that we could not make a determination based on the information provided. The Department requested respondent to document the total quantity of subject merchandise sold to all affiliated parties (regardless of whether subject merchandise was later further processed by affiliates). China Steel failed to provide such information.

The Department concluded from China Steel's February 26, 2001 home market sales data that it coded sales to Yieh Loong, Yieh Phui, and Yieh Hsing as sales to unaffiliated parties. China Steel owns a substantial percentage of Yieh Loong, and Yieh Loong acknowledged that Yieh Phui, Yieh Hsing, and Persistence Hi-Tech are affiliated entities. *See* Affiliated Resellers Memorandum, April 19, 2001. The Department determined that China Steel's sales to Yieh Loong, Yieh Phui, and Yieh Hsing are to affiliated parties and constituted more than five percent of China Steel's February 26, 2001 home market sales observations. On March 15, 2001, the Department issued its supplemental sections B and C questionnaire, reiterating that China Steel must report all affiliated parties' resale information (Yieh Loong, China Steel Chemical, China Steel Global, Yieh Phui, and Yieh Hsing) to the first unaffiliated party. We note that our subsequent finding that China Steel and Yieh Loong should be treated as the same entity meant that we no longer needed the sales from China Steel to Yieh Loong; however, that finding did not diminish the need for affiliated parties' resale information for China Steel Chemical, China Steel Global, Yieh Phui, Yieh Hsing, and Persistence Hi-Tech.

China Steel/Yieh Loong's April 23, 2001 response provided incomplete, deficient, and inconsistent affiliated-party resales information. Moreover, Yieh Loong's April 23, 2001 submission failed to contain narratives and supporting documentation for all expenses and adjustments of its downstream sales. China Steel only reported downstream sales by Yieh Loong, Yieh Phui, and Yieh Hsing, made after February 21, 2000. As the questionnaire clearly indicates, the period of investigation is October 1, 1999 through September 30, 2000. Therefore a significant number of downstream sales have not been provided. China Steel's April 3, 2001 narrative states that it does not control Yieh Phui and Yieh Hsing; however, it has provided no evidence of the steps it took to obtain this information.

2. Physical Product Characteristics

The Department found other deficiencies that made China Steel's submission unusable for purposes of calculating a dumping margin. The principal deficiency was the failure to report certain product characteristics on particular types of sales, *e.g.*, quality, carbon content, yield strength, thickness, and width. These deficiencies affected a significant share of China Steel's home market sales of prime merchandise that could be matched to U.S. sales, including both sales to its unaffiliated customers and to its affiliates Yieh Phui, Yieh Hsing, and China Steel Global. The absence of the noted five characteristics for numerous sales limits the ability to compare properly sales made to the U.S. market to sales made in the home market due to the uniqueness of each characteristic. Quality, carbon content, and yield strength will determine the performance characteristics of a given steel product and are critical physical characteristics, which will significantly affect the cost of production and pricing of various steel products. Width and thickness are physical characteristics that also affect pricing of the product, due in part to costs associated with producing material with different dimensional characteristics, and these characteristics also affect the cost of production, since thinner or narrower products require additional processing. This information is required to calculate a difference-in-merchandise adjustment when price-to-price comparisons involve similar, but not identical, models. China Steel's failure to provide complete physical characteristics for its home market merchandise precluded the Department from performing its normal cost and price analysis.

China Steel has contended that all sales which are missing such characteristics are so-called ''leeway'' sales. When China Steel manufactures products to a customer's specifications, it often produces somewhat more than it needs to meet the customer's needs. This remainder is put into inventory for subsequent sale to other customers. Thus, China Steel's characterizations to the contrary notwithstanding, the merchandise in question is not ''secondary'' quality merchandise which should not be matched to prime quality merchandise. The merchandise in question is prime quality; it has simply not been purchased by the customer to whose specifications it was originally produced. Moreover, although China Steel has claimed that it does not have the characteristics in question, China Steel has not explained how it could sell steel without knowing such fundamental characteristics as the width and thickness of the steel. In the Department's experience, hot-rolled

steel customers demand to know all of the physical characteristics in the Department's hierarchy in order to be sure that the product they are purchasing will meet the demands of their intended application. Even for an application as simple as covering a hole in the street, a customer must know the thickness and width in order to be sure that the hole will be covered and the steel will not bend.

China Steel has not reported the product characteristics of quality, carbon, yield strength, thickness, and width on a significant percentage of its home market sales; thus, none of these sales data can be used for cost tests, model match, or price comparisons. Yieh Loong, Yieh Phui, and Yieh Hsing resold merchandise purchased from China Steel without any further processing; therefore, the same deficiency affecting China Steel's sales *to* its affiliates carries through to the resales *by* affiliates. Because China Steel's sales to affiliates constituted approximately one-fifth of its total home market sales observations, its affiliated parties' resale product characteristics are severely incomplete. Sales of merchandise with the missing model characteristics constitute more than half of Yieh Loong's, Yieh Phui's, and Yieh Hsing's reported resales. Furthermore, the unaffiliated party sales are similarly affected. Sales of prime merchandise with the missing product characteristics totaled nearly one-fifth of total home market sales observations by China Steel to unaffiliated companies, and more than eight percent of the reported home market sales of China Steel/Yieh Loong.

Adverse Inferences

Pursuant to section 776(b) of the Tariff Act, we find that China Steel failed to cooperate to the best of its ability because it repeatedly ignored the Department's instructions to submit accurate downstream sales data as demonstrated by its selective submission of China Steel's affiliates' data, and never provided alternatives or reasonable explanations for why it could not report all downstream sales. Further, without this data, the information regarding home market sales is unusable. In addition, a significant quantity of China Steel's home market sales are made through affiliates. Without this information the Department's ability to calculate an accurate dumping margin would be severely hindered.

Moreover, we also find that China Steel failed to cooperate to the best of its ability because it repeatedly ignored the Department's instructions to submit complete physical characteristics for its sales. Without this information, the Department cannot identify home market sales of identical or most similar products, thus rendering its entire home market database unusable. Nor can we properly perform a cost test for home market sales.

Because the deficiencies in China Steel/Yieh Loong's responses affect a significant portion of its responses, its data is unusable for purposes of calculating a margin. Accordingly, for the purpose of this final determination, we have assigned as adverse facts available the highest margin from the antidumping petition as recalculated by the Department. *See Notice of Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Carbon Steel Flat Products from Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, Ukraine*, 65 FR 77568 (December 12, 2000).

All Others Rate

Pursuant to section 735(5)(B) of the Tariff Act, the estimated ''all-others'' rate is equal to the average of the dumping margins calculated in the antidumping duty petition as recalculated by the Department. *See* Preliminary Determination at 22208.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the Customs Service to continue to suspend the liquidation of all entries of hot-rolled carbon steel flat products from Taiwan that are entered, or withdrawn from warehouse, for consumption on or after May 3, 2001, the date of publication of the Preliminary Determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted average dumping margin, as indicated in the chart below. These cash deposit instructions will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
China Steel Corporation (including Yieh Loong).	29.14
An Feng Steel Co., Ltd	29.14
All Others	20.28

International Trade Commission Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (the Commission) of the determination. As the final determination is affirmative, the Commission will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the Commission determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the Commission determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to section 735(d) and 777(i)(1) of the Tariff Act.

Dated: September 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

Comments and Responses

1. Collapsing of China Steel and Yieh Loong
2. Affiliation
3. Time to Respond to Request for Information
4. Application of Facts Available & Adverse Facts Available

[FR Doc. 01–24409 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–817]

Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products From Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza or Nancy Decker at (202) 482–3019 or (202) 482–0196, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2000).

Final Determination

We determine that certain hot-rolled carbon steel flat products (HR) from Thailand are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on May 3, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from Thailand,* 66 FR 22199 (May 3, 2001) (*Preliminary Determination*). Since the publication of the Preliminary Determination the following events have occurred.

On May 1, 2001, Sahaviriya Steel Industries Public Co., Ltd. (SSI), the sole responding company in this investigation, requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and requested an extension of the provisional measures. On June 4, 2001, we extended the final determination until not later than 135 days after the publication of the preliminary determination in the **Federal Register**. *See Notice of Postponement of Final Antidumping Duty Determination: Certain Hot Rolled Carbon Steel Flat Products from Thailand and Notice of Postponement of Final Countervailing Duty Determinations: Certain Hot Rolled Carbon Steel Flat Products from Thailand and South Africa,* 66 FR 31888 (June 13, 2001).

The Department verified sections A–C of SSI's responses from May 14, 2001 through May 21, 2001, at SSI's administrative headquarters in Bangkok, Thailand and at its production facility in Bangsaphan, Thailand. The Department also verified section D of SSI's response from May 28, 2001 through June 1, 2001, at SSI's administrative headquarters. *See* Memorandum For the File; ''Sales Verification of Sections A–C Questionnaire Responses—SSI'', July 11, 2001 (Sales Verification Report) and Memorandum to Neal Halper, Director, Office of Accounting; ''Verification of the Cost of Production and Constructed Value Data-SSI,'' July 10, 2001 (Cost Verification Report). Public versions of these, and all other Departmental memoranda referred to herein, are on file in the Central Records Unit, room B–099 of the main Commerce building.

On May 23, 2001, some petitioners (Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corporation, and United States Steel LLC (formerly known as ''U.S. Steel Group (a Unit of USX Corporation)'') requested a public hearing. The remaining petitioners (IPSCO Steel Inc., Gallatin Steel Company, Nucor Corporation, Steel Dynamics, Inc., Weirton Steel Corporation, and the Independent Steelworkers Union) also requested a public hearing on June 1, 2001. In addition, on June 4, 2001, SSI requested a public hearing. On July 24, 2001 the petitioners which first requested a hearing and SSI withdrew their requests for a public hearing. On July 26, 2001, the remaining petitioners withdrew their request for a public hearing. On July 25, 2001, we received case briefs from SSI and petitioners. We received rebuttal briefs from all parties on July 30, 2001.

Although the deadline for this determination was originally September 17, 2001, in light of the events of September 11, 2001 and the subsequent closure of the Federal Government for reasons of security, the timeframe for issuing this determination has been extended by four days.

Period of Investigation

The period of investigation (POI) is October 1, 1999 through September 30, 2000.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated September 21, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B–099.

In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at *www.ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

For purposes of this investigation, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation. Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: (i) iron

predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, e.g., ASTM specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron and Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this investigation is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon steel flat products covered by this investigation, including: Vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations. These changes are noted in various sections of the Decision Memorandum, accessible in B–099 and on the Web at *www.ia.ita.doc.gov/frn.*

Use of Facts Available

SSM

In the preliminary determination, the Department determined that the application of total adverse facts available (AFA) was appropriate with respect to Siam Strip Mill Public Co., Ltd. (SSM), a mandatory respondent that failed to respond to the Department's questionnaire. As AFA, the Department applied a margin rate of 20.30 percent, the highest alleged margin based on our recalculation for Thailand in the petition. The interested parties did not object to the use of adverse facts available for SSM, or to the Department's choice of facts available, and no new facts were submitted which would cause the Department to revisit this decision. Therefore, for the reasons set out in the preliminary determination, we have continued to use the highest margin alleged by the petitioner (as recalculated by the Department at initiation) for the purposes of this final determination notice.

SSI

In accordance with section 776 of the Act, we have determined that the use of facts available is appropriate for certain portions of our analysis of SSI. For a discussion of our determination with respect to these matters, *see* the Decision Memorandum.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing Customs to continue to suspend liquidation of all entries of HR products from Thailand that are entered, or withdrawn from warehouse, for consumption on or after May 3, 2001, the date of publication of the Preliminary Determination.

Article VI.5 of the General Agreement on Tariffs and Trade (GATT 1994) provides that ''[n]o product * * * shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization.'' This provision is implemented in section 772(c)(1)(C) of the Tariff Act. Since antidumping duties cannot be assessed on the portion of the margin attributed to export subsides there is no reason to require a cash deposit or bond for that amount. The Department has determined in its Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand that the product under investigation benefitted from export subsidies. Normally, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct the Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated below, minus the amount determined to constitute a export subsidy. *See, e.g., Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy,* 63 FR 49327 (September 15, 1998). Accordingly, for cash deposit purposes we are subtracting from SSI's cash deposit rate that portion of the rate attributable to the export subsidies found in the countervailing duty investigation involving SSI (*i.e.,* 0.58 percent). We have made the same adjustment to the ''All Others'') and SSM cash deposit rate by subtracting the rate attributable to export subsidies found in the countervailing duty investigation of SSI.

We will instruct the Customs Service to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by the normal value exceeds the export price, adjusted for the export subsidy rate, as indicated

below. These suspension of liquidation instructions will remain in effect until further notice. We determine that the following weighted-average dumping margins exist for the period October 1, 1999 through September 30, 2000:

Export/manufacturer	Bonding/Cash Deposit Rate	
	Weighted-average margin percent	(Percent)
SSI	4.44	3.86
SSM	20.30	19.72
All Others	4.44	3.86

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports on the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues in Decision Memorandum

1. Depreciation
2. Refund of Import Duties on Slab
3. Cutting Costs
4. Scrap Sales Revenue
5. Use of Full Year 2000 Audited Financial Statements for G&A and Interest Expenses
6. Use of Exchange Rate Losses in Interest Expenses
7. Subsidiaries' G&A Expenses
8. Skin Passing Costs
9. U.S. Date of Sale
10. Indirect Selling Expenses (and G&A) of one of SSI's Affiliated Resellers
11. Home Market Credit Expense of one of SSI's Affiliated Resellers
12. Home Market Movement Expenses—Freight Adjustment of one of SSI's Affiliated Resellers
13. Warranty Expenses—Coding Sales as Prime Versus Non-Prime
14. Weighted Average Margin Calculation—Zeroing Negative Margins

[FR Doc. 01–24411 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–806]

Notice of Final Determination of Antidumping Duty Investigation: Certain Hot-Rolled Carbon Steel Flat Products from Romania

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We determine that certain hot-rolled carbon steel flat products (HRS) from Romania are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended. On May 3, 2001, the Department of Commerce (the Department) published the preliminary determination of its investigation of HRS from Romania, and on June 6, 2001, the Department published its amended preliminary determination. The period of investigation (POI) is April 1, 2000, through September 30, 2000. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* November 2000). Based on our analysis of comments received, the final determination differs from the preliminary determination. The estimated margins of sales at LTFV is listed below in the ''Suspension of Liquidation'' section.

EFFECTIVE DATE: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Christopher Riker or Charles Riggle, Office 5, Group II, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0186 and (202) 482–0650, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are references to the provisions codified at 19 CFR Part 351 (2000).

Case History

On May 3, 2001, the Department published its preliminary determination of this investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Hot-Rolled Carbon Steel Flat Products from Romania,* 66 FR 22194 (*Preliminary Determination*). On June 6, 2001, the Department amended its preliminary determination in this investigation. *See Notice of Amended Preliminary Antidumping Duty Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from Romania,* 66 FR 30411 (*Amended Preliminary Determination*). After the *Amended Preliminary Determination,* the Department verified the information submitted on the record by the respondents. *See* the verification report from the verification of the Questionnaire Responses of Sidex S.A. and Sidex Trading SRL (August 2, 2001). *See also,* the verification reports from the verifications of the Questionnaire Responses of MEI, Metanef, Metagrimex and Sidex International, Plc (August 2, 2001). On August 17, 2001, certain petitioners [1] and the respondents [2] submitted case briefs. Furthermore, on August 24, 2001, we received rebuttal briefs from both parties as well as additional petitioners [3] in this proceeding. The department received requests for a public hearing from Bethlehem Steel Corporation, LTC Steel Company, Inc., National Steel Corporation, and United States Steel LLC as well as the respondents. The hearing was held on August 28, 2001.

Although the deadline for this determination was originally September 17, 2001, in light of the events of September 11, 2001 and the subsequent closure of the Federal Government for reasons of security, the timeframe for issuing this determination has been extended by four days.

Scope of Investigation

For purposes of this investigation, the products covered are certain hot-rolled carbon steel flat products of a

[1] These petitioners are Bethlehem Steel Corporation, Inc., National Steel Corporation, and United States Steel LLC.

[2] The respondents are Sidex, S.A. (Sidex), Sidex Trading SRL, Sidex International Plc (collectively, the Sidex Exporters), Metalexportimport S.A. (MEI), Metanef S.A. (Metanef) and Metagrimex Business Group S.A. (Metagrimex).

[3] These Petitioners are Gallatin Steel Company, IPSCO Steel Inc., Nucor Corporation, Steel Dynamics, Inc., Weirton Steel Corporation and the Independent Steelworkers Union.

rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight length, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.,* American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506). Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this investigation is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by this investigation, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.10.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Non-market Economy Country

The Department has treated Romania as a non-market-economy (NME) country in all past antidumping proceedings (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania,* 65 FR 39125 (June 23, 2000)). A designation as a NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act). The respondents in this investigation have not requested a revocation of Romania's NME status and no further information has been provided that would lead to such a revocation. Therefore, we have continued to treat Romania as a NME in this investigation.

When the Department is investigating imports from a NME, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued to the extent possible in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the *Normal Value* section, below.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the ''*Issues and Decision Memorandum*'' (*Decision Memorandum*) from Bernard T. Carreau, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated September 21, 2001, which is hereby adopted by this notice.

A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (CRU), room B–099 of the main Commerce Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov/*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Separate Rates

It is the Department's policy to assign a single rate to all exporters of subject merchandise subject to investigation in a NME country unless an exporter can

demonstrate that it is sufficiently independent so as to be entitled to a separate rate. For purposes of this ''separate rates'' inquiry, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this test, exporters in NME countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control over exports, both in law (de jure) and in fact (de facto).

In our preliminary determination, we found, according to the criteria identified in *Sparklers* and *Silicon Carbide,* that the Sidex Exporters, MEI, Metanef and Metagrimex had met the criteria for the application of separate antidumping duty rates. For a complete discussion of the Department's determination that the Sidex Exporters, MEI, Metanef and Metagrimex are entitled to separate rates, *see* the April 23, 2001, memoranda, *Assignment of Separate Rate for Sidex Trading SRL and Sidex International, Plc in the Antidumping Duty Investigation of Certain Hot-rolled Carbon Steel Flat Products from Romania,* as well as *Assignment of Separate Rate for Metalexportimport, S.A. (MEI), Metanef, S.A. (Metanef) and Metagrimex Business Group, S.A. (Metagrimex) in the Antidumping Duty Investigation of Certain Hot-rolled Carbon Steel Flat Products from Romania,* which are on file in the CRU. The Petitioners argued in their case briefs that the Department should reconsider granting separate rates for the Sidex Exporters, MEI, Metanef and Metagrimex. For a more detailed analysis of why we continue to find that the responding exporting companies in this investigation should be assigned individual dumping margins, *see* the *Decision Memorandum.*

Romania-Wide Rate

As in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters comprise a single entity under common government control, the ''NME entity.'' Therefore, the Department assigns a single NME rate to the NME entity, unless an exporter can demonstrate eligibility for a separate rate. If all exporters, accounting for all exports of subject merchandise to the United States during the POI, demonstrate eligibility for a separate rate, the Department will calculate an ''all others'' rate as it does in market economy cases. However, if record evidence suggests that certain exporters have not responded to at least the Department's initial shipment information query, the Department will rely on its presumption that there is an additional entity under government control and will assign a country-wide rate to the NME entity. Such is the situation in this investigation. *See Preliminary Determination, see also Decision Memorandum.* Specifically, we have not been unable to confirm through a comparison of the reported data to public sources that no other company exported HRS from Romania to the United States during the POI.

Changes Since the Amended Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margin in this proceeding. These adjustments are summarized below:

1. We revised the surrogate values assigned to all of our inputs using 1999 United Nations Commodity Trade Statistics (UNCTS) data, which is more contemporaneous than the 1998 data used in our preliminary determination. For further details *see* Comment 1 in the *Decision Memorandum.*

2. Through our analysis of documents at verification, we determined that Sidex neglected to report a portion of its labor hours for the flat-rolling mill that should have been included in its original calculations. Based on our analysis of the information on the record, we increased the total labor hours in order to account for these unreported activities for not only the flat-rolling mill, but all of the production shops. For further details *see* Comment 2 in the *Decision Memorandum.*

3. We increased the reported amount of electricity consumed by the respondents to account for missing data discovered at verification. For further details *see* Comment 3 in the *Decision Memorandum.*

4. We revised the values assigned to limestone, sulphuric acid, ferromanganese, iron slag, coke, caustic soda, raw tar and manganese ore to more contemporaneous and non-aberrational values. For further details *see* Comments 6, 7, 10–13 and 16 in the *Decision Memorandum.*

5. We have revised the value assigned to iron pellets as we have determined that iron pellets are similar enough to iron lumps that they should be assigned the same value. For further details *see* Comment 9 in the *Decision Memorandum.*

6. We have revised the value assigned to coal powder, using an actual purchase price. For further details *see* Comment 14 in the *Decision Memorandum.*

7. We determined at verification that Sidex provides coke gas and furnace gas to an on-site electrical facility in exchange for de-mineralized water. Therefore, we have not assigned a cost to the de-mineralized water, nor have we assigned a credit to the sales of coke gas and furnace gas. For further details *see* Comments 15 and 18 in the *Decision Memorandum.*

8. We have revised our freight calculations for several sales made by MEI and Metanef where a cost was calculated for sales whose terms of delivery were FOB Galati. For the final determination we have not calculated a freight cost for these observation numbers. For further details *see* Comments 21 and 22 in the *Decision Memorandum.*

9. We have revised certain surrogate freight distances, assigned to imports of raw materials by the producer, in our normal value to reflect a surrogate freight cost using the shorter of the distance from the seaport to the factory or the reported distance from the domestic supplier to the factory pursuant to the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401, 1408–11 (Fed. Cir. 1997).

10. We have used a surrogate financial ratio for overhead that includes both non-depreciation and depreciation for our final determination. For further details *see* Comment 19 in the *Decision Memorandum.*

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the Customs Service to continue to suspend liquidation of all entries of HRS from Romania that are entered, or withdrawn from warehouse, for consumption on or after May 3, 2001, the date of publication of the *Preliminary Determination.* The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for the period April 1, 2000 through September 30, 2000: —

Manufacturer/exporter	Margin (percent)
Sidex Trading, SRL & Sidex International, Plc	16.88
Metanef, S.A	22.48
Metagrimex, S.A	17.14
Metalexportimport, S.A	18.63
Romania-Wide	88.62

The Romania-wide rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Date: September 231, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

List of Comments in the Issues and Decision Memorandum

I. Issues Specific to SIDEX
- Comment 1: Surrogate Statistics
- Comment 2: Labor Hours
- Comment 3: Electricity
- Comment 4: Acuterm and Quartz Sand
- Comment 5: Water
- Comment 6: Limestone
- Comment 7: Sulphuric Acid
- Comment 8: Ferromanganese
- Comment 9: Iron Lumps and Pellets
- Comment 10: Iron Slag
- Comment 11: Coke
- Comment 12: Caustic Soda
- Comment 13: Raw Tar
- Comment 14: Coal Powder
- Comment 15: Demineralized Water
- Comment 16: Manganese Ore
- Comment 17: Methane
- Comment 18: Furnace and Coke Gas
- Comment 19: Overhead, SG&A, Interest and Profit Ratios

I. Issues Specific TO MEI
- Comment 20: Export Licenses
- Comment 21: Freight Terms

II. issues Specific to METANEF
- Comment 22: Freight Terms

III. General Issues
- Comment 23: Romania-Wide Rate
- Comment 24: Separate Rates for Metanef, MEI, and Metagrimex
- Comment 25: Brokerage and Freight
- Comment 26: Barter Transactions
- Comment 27: Expenses Incurred from Imported Inputs from Market Economy Suppliers

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BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–812]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Ronald Trentham at (202) 482–3936 and (202) 482–6320, respectively, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2000).

Final Determination

We determine that certain hot-rolled carbon steel flat products from Indonesia are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the Final Determination of Investigation section of this notice.

Case History

The preliminary determination in this investigation was published on May 3, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia,* 66 FR 22163 (May 3, 2001) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred. On May 11, 2001, we received a letter from PT Krakatau Steel Corporation (Krakatau), the respondent, that requested permission to submit a revised response to the Department's April 16, 2001 supplemental questionnaire. The Department granted this request on May 23, 2001 and received Krakatau's submission on May 29, 2001. We verified Krakatau's questionnaire responses from July 23 through July 27, 2001. On August 17, 2001, we released a calculation memorandum and computer programs to interested parties for the purpose of allowing parties to comment on the margin calculation methodology that would be used in the event the Department calculated a margin for the final LTFV determination. The petitioners [1] and respondent filed case briefs on August 24 and August 27, 2001, respectively. Both parties filed rebuttal briefs on August 31, 2001. A public hearing was held on September 6, 2001. Although the deadline for this determination was originally September 17, 2001, in light of the events of September 11, 2001 and the subsequent closure of the Federal Government for reasons of security, the time frame for issuing this determination has been extended by four days.

The Department has conducted this investigation in accordance with section 731 of the Act.

Scope of Investigation

For purposes of this investigation, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a

[1] The petitioners in this investigation are Bethlehem Steel Corporation, Gallatin Steel Company, IPSCO Steel Inc., LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., U.S. Steel Group (a unit of USX Corporation), Weirton Sttel Corporation, Independent Steelworkers Union, ad United Steelworkers of America (collectively the petitioners).

width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: i) iron predominates, by weight, over each of the other contained elements; ii) the carbon content is 2 percent or less, by weight; and iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.,* American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to these investigations is classified in the HTSUS under the following tariff classification numbers: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by this investigation, including vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff classification numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS tariff classification numbers are provided for convenience and U.S. Customs Service (Customs) purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 1999 through September 30, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* November 2000).

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent. *See* Memorandum to the File from Mark Manning, ''Sales Verification Report for PT Krakatau Steel Corporation,'' dated August 10, 2001 (Sales Verification Report).

Use of Facts Available

In the preliminary determination, the Department based the dumping margin for Krakatau on facts otherwise available pursuant to section 776(a)(2)(A) of the Act. The use of facts otherwise available was warranted because Krakatau failed to adequately respond to the Department's questionnaire. The Department also found that Krakatau failed to cooperate by not acting to the best of its ability. As a result, pursuant to section 776(b) of the Act, the Department used an adverse inference in selecting from the facts available. Specifically, the Department assigned Krakatau a margin of 59.25 percent, the margin published in the Department's Notice of Initiation, which was based on information in the petition. *See Notice of Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Carbon Steel Flat Products From Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine,* 65 FR 77568 (December 12, 2000).

After the preliminary determination, the Department allowed Krakatau to submit a revised questionnaire response. In this response, Krakatau corrected several of the deficiencies upon which the Department based its preliminary total adverse facts available determination. In light of the corrected information, we conducted verification and released a calculation memorandum and dumping calculations, unadjusted for verification findings, to interested parties for comment. Based upon our analysis of the comments received, we find that Krakatau has corrected enough of its deficiencies to allow the Department to calculate an dumping margin for the final determination. However, because of additional deficiencies discovered at verification,

we are applying partial facts available to two aspects of Krakatau's sales response.

1. Application of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808, 53819–20 (October 16, 1997). Finally, section 776(b) of the Act states that an adverse inference may include reliance on information derived from the petition. *See also* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994).

For the reasons discussed below, the Department determines that, in accordance with sections 776(a)(2)(B) and 776(b) of the Act, the use of partial adverse facts available is appropriate for the final determination for Krakatau. The evidence on the record establishes that the use of partial facts available for Krakatau is warranted because Krakatau failed to provide complete sales questionnaire responses within the meaning of section 776(a)(2)(B) of the Act. In its initial and supplemental responses, Krakatau failed to provide information concerning the currency of its reported U.S. sales and its calculation of its home market and U.S. market short-term interest rates in the manner requested in the Department's initial and supplemental antidumping questionnaires.

Moreover, Krakatau does not fall within the deadline exceptions established in 782(c)(1) of the Act. At no time did Krakatau notify the Department that it was unable to submit the requested information in the requested form and manner; nor did it suggest alternative forms in which it would be able to submit the requested information. Throughout the course of this antidumping investigation, the Department gave Krakatau, a company without U.S. legal counsel, assistance and opportunities to comply with the Department's requests for information, as provided by section 782(c)(2).[2] Specifically, taking into consideration the fact that the respondent is a pro se company, the Department provided Krakatau detailed information and guidance on how to properly calculate and report sales and cost data and adjustments, granted Krakatau extensions to reply to requests for information, and provided an opportunity to explain and correct the deficiencies in its responses. However, at no point in the investigation did Krakatau notify the Department that it had any difficulties in submitting the information in the form and manner requested, seek guidance on alternative reporting requirements, or propose an alternate form for submitting the required data, as contemplated in section 782(c)(1) of the Act. Despite the efforts at assistance on the part of the Department, Krakatau failed to provide information reliable enough that it can serve as a basis for reaching the applicable determination.

Pursuant to section 782(e)(3) of the Act, we find that certain aspects of the sales information Krakatau provided in its initial and supplemental responses is deficient such that the Department cannot use this information in reaching the applicable determination. Specifically, our analysis of Krakatau's sales response found deficiencies with regard to the Bank of Indonesia (BOI) exchange rates used by Krakatau to convert its U.S. dollar invoice prices into the reported rupiah prices, and the calculation of its home market and U.S. market interest rates that are used in its imputed credit calculations.

We also find that pursuant to section 776(b) of the Act, the application of an adverse inference in this case is appropriate. Krakatau failed to act to the best of its ability to comply with the Department's requests for information when it failed to report its U.S. market sales in the currency of transaction (*i.e.,* U.S. dollars) and its home market and U.S. market short-term interest rates. Despite the Department's directions in the original and supplemental questionnaires, and the extensions granted, Krakatau made no effort to provide any explanation or propose an alternate form of submitting the data.

Furthermore, the information cannot be obtained elsewhere. There is no information on the record of this investigation with which the Department could determine the correct exchange rates and short-term interest rates. Without this information, the Department cannot accurately determine the dumping margin for Krakatau. Despite the Department's directions in the questionnaires, Krakatau did not provide the information requested by the Department, made no effort to explain any difficulties it was having in supplying the information, and did not propose an alternate form of submitting the information. For these reasons, we find that Krakatau did not act to the best of its ability in responding to the Department's requests for information, *see, e.g., Circular Stainless Steel Hollow Products,* and that, consequently, an adverse inference is warranted under section 776(b) of the Act.

Pursuant to section 776(b) of the Act, the Department is applying partial adverse facts available to the exchange rates needed to convert Krakatau's U.S. sales from the reported rupiah values to the original U.S. dollar invoice prices and Krakatau's short-term home market and U.S. market interest rates. Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. As adverse facts available, we are applying the largest BOI exchange rate contained in the U.S. market discrepancy chart, which was obtained at verification, to all U.S. sales invoiced in time periods not covered by this chart. *See* Sales Verification Report, at Exhibits 3 and 4. With regard to the short-term interest rates, we are applying the largest imputed credit expense for any single U.S. sale to all of the respondent's U.S. sales, and applying the smallest imputed credit expense for any single home market sale to all of Krakatau's reported home market sales.

2. Selection and Corroboration of Facts Available

Since the Department is using as adverse facts available information submitted by the respondent in the course of this verification, or obtained at

verification, there is no need to conduct a corroboration analysis.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Memorandum from Bernard T. Carreau to Faryar Shirzad, ''Issues Memorandum for the Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Certain Hot-Rolled Steel Flat Products from Indonesia,'' dated September 21, 2001 (*Issues Memorandum*), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Issues Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the *Issues Memorandum* are identical in content.

Changes Since the Preliminary Determination

On August 17, 2001, the Department released to the petitioners and Krakatau a calculation memorandum and computer programs demonstrating the methodology the Department would follow in the event we calculated a dumping margin for the final determination. The programs released at that time did not take into account our verification findings. As mentioned above, the parties had the opportunity to comment on the unadjusted programs and on the verification findings. Based upon our analysis of the comments received from the petitioners and Krakatau, we made the following revisions to the unadjusted calculations released on August 17, 2001:

A. Convert all reported U.S. prices from rupiahs to U.S. dollars using the BOI exchange rates obtained from the U.S. market discrepancy chart (Verification Exhibit 4);

B. Revise the exchange rate errors in the U.S. sales database, as listed on Verification Exhibit 4, with the correct data contained in that exhibit;

C. Revise the invoice errors in the U.S. sales database, as listed on Verification Exhibit 4, with the correct data contained in that exhibit;

D. Revise the exchange rate errors in the home market sales database, as listed on the home market discrepancy chart (Verification Exhibit 3), with the correct data contained in that exhibit;

E. Revise the invoice errors in the home market sales database, as listed on Verification Exhibit 3, with the correct data contained in that exhibit;

F. Remove home market sales of cut-to-length products with a reported thickness code #5 because such merchandise is non-foreign like product;

G. Apply the largest transaction-specific U.S. credit expense (CREDITU) for any single U.S. sale to all of the respondent's U.S. sales, and apply the smallest transaction-specific home market credit expense (CREDITH) for any single home market sale to all of Krakatau's reported home market sales;

H. Classify the reported home market and U.S. market advertising costs as indirect expenses and include these costs with Krakatau's reported indirect expenses;

I. Classify the reported home market and U.S. market technical service costs as indirect expenses and include these costs with Krakatau's reported indirect expenses;

J. Revise the reported home market and U.S. market packing costs to account for unreported packing labor and overhead;

K. Revise Krakatau's general and administrative expense ratio to account for our findings at verification;

L. Calculate Krakatau's financial expense ratio based on the financial statements of its parent company, PT Bahana Pakarya Industri Strategies;

M. Adjust the total cost of manufacture to include Krakatau's year-end accounting adjustments;

N. Revise Krakatau's depreciation of fixed assets to account for inflation that occurred prior to the POI;

O. Adjust the cost of electricity to reflect the market cost of electricity as quoted in certain newspaper articles; and

P. Calculate an average market price for natural gas using prices quoted in certain newspaper articles, Krakatau's internal books and records, and Talisman Energy Inc.'s 2000 annual report.

For a further discussion of these calculations, see Memorandum from Mark Manning to the File, ''Calculation Memorandum of the Final Determination for the Antidumping Duty Investigation of PT Krakatau Steel Corporation,'' September 21, 2001; and Memorandum from Laurens Van Houten to Neal Halper, ''Cost of Production and Constructed Value Calculation Adjustments for the Final Determination,'' September 19, 2001.

Final Determination of Investigation

We determine that the following weighted-average percentage margins exist for the period October 1, 1999 through September 30, 2000:

Manufacturer/exporter	Margin (percent)
PT Krakatau Steel Corporation	47.86
All Others	47.86

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service to continue to suspend liquidation of all entries of hot-rolled steel from Indonesia that are entered, or withdrawn from warehouse, for consumption on or after May 3, 2001 (the date of publication of the Preliminary Determination in the **Federal Register**). The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Topics in Issues Memorandum

1. Application of Facts Available to U.S. Sales Database

2. Application of Facts Available to Short-Term Interest Rate Used to Calculate Credit Expense
3. General and Administrative Expense Ratio
4. Financial Expense Ratio
5. Depreciation Expense
6. Electricity and Natural Gas Valuation
7. Year End Audit Adjustments
8. Understated Direct Material Costs
9. Calculation of Total Variable Overhead Costs
10. Inclusion of Direct Selling Expenses in the Cost Test

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–865]

Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy, Catherine Bertrand, Doreen Chen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482–0165, 482–3207, 482–0193 respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Final Determination

We determine that certain hot-rolled carbon steel flat products from the People's Republic of China (''PRC'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margin of dumping is shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on May 3, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China*, 66 FR 22183 (May 3, 2001) (''*Preliminary Determination*''). Since the publication of the *Preliminary Determination*, the following events have occurred.

On April 30, 2001, Angang Group International Trade Co. Ltd., New Iron & Steel Co., Ltd., & Angang Group Hong Kong Co., Ltd., (''Angang'') requested that the Department correct ministerial errors found in Angang's margin calculation. On May 16, 2001, the Department determined that, although there were certain ministerial errors, they did not meet the definition of significant ministerial error within the meaning of 19 CFR 351.224(g)(1). As a result, at that time we did not make the suggested corrections. However, we have made the adjustment for these three errors in this final determination.

On May 22, 2001, petitioners submitted a request for a public hearing in accordance with 19 CFR 351.310(c). On August 10, 2001, petitioners withdrew their request for a hearing. Because petitioners were the only party to request a hearing, and because it was withdrawn in a timely manner, the Department did not conduct a hearing. On May 14–18, 2001, the Department conducted a verification of Shanghai Baosteel Group Corporation (''Baosteel Group''). On May 21–25, 2001, the Department conducted a verification of Angang. On May 28–31, 2001, the Department conducted verification of Benxi Iron & Steel Group International Economic & Trade Co.,Ltd., Bengang Steel Plates Co., Ltd. and Benxi Iron & Steel Group Co., Ltd., (''Benxi'').

On June 19, 2001, Angang and Benxi placed on the record public information for the purpose of providing the Department with additional information that can be used in valuing the factors of production. Also on June 19, 2001, petitioners placed on the record public information for the purpose of providing the Department with additional information that can be used in valuing the factors of production.

On July 27, 2001, petitioners submitted their case brief with respect to the sales and factors of production verification and the Department's *Preliminary Determination*. On July 27, 2001, respondent Baosteel Group submitted its case brief with respect to the sales and factors of production verification and the Department's preliminary determination. On August 6, 2001, Angang and Benxi submitted their case briefs with respect to the sales and factors of production verification and the Department's preliminary determination. On August 8, 2001, petitioners and respondents submitted rebuttal briefs with respect to the sales and factors of production verification and the Department's Preliminary Determination.

Although the deadline for this determination was originally September 17, 2001, in light of the events of September 11, 2001 and the subsequent closure of the Federal Government for reasons of security, the timeframe for issuing this determination has been extended by four days.

Period of Investigation

The period of investigation is April 1, 2000 through September 30, 2000.

Non-Market Economy

The Department has treated the PRC as a non-market economy (NME) country in all its past antidumping investigations. *See, e.g., Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China,* 65 FR 33805 (May 25, 2000), and *Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the People's Republic of China,* 66 FR 33522 (June 22, 2001). A designation as an NME country remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. The respondents in this investigation have not requested a revocation of the PRC's NME status. We have continued to treat the PRC as an NME in this investigation. For further discussion, see Department's Preliminary Determination.

Separate Rates

In our Preliminary Determination, we found that the respondents had met the criteria for the application of separate antidumping duty rates. On July 10, 2001, the Department placed on the record of this case information from the World Steel Forum, 2001, OECD/China Workshop on Steel Market, Trade and Structural Adjustment, held in Shanghai, China on May 10–11, 2001. We gave parties until July 20, 2001, to submit factual information to rebut, support, clarify, or correct the new factual information placed on the record by the Department. We extended this deadline until July 24, 2001, at the request of respondent Baosteel Group. On July 24, 2001, we received responses from Angang, Baosteel Group, Benxi, and the petitioners. On July 26 and August 3, 2001, Baosteel Group

submitted additional information to ''rebut, clarify, or correct'' the information submitted by petitioners. For a complete discussion of the Department's determination that the respondents are entitled to separate rates, see *Decision Memorandum.*

The PRC-Wide Rate

For the reasons set forth in the Preliminary Determination, we continue to find that the use of adverse facts available for the PRC-wide rate is appropriate. *See Preliminary Determination,* 66 FR 22183. Consistent with our Preliminary Determination, as adverse facts available, we have used the highest rate calculated for a respondent, *i.e.,* the rate calculated for Benxi. We note that this rate is higher than the adjusted margin of dumping calculated from the petition (69.08 percent). For recalculation of petition margin, see *Memorandum to the File: Recalculation of Petition Margin in the Antidumping Duty Investigation of Hot-Rolled Steel from the People's Republic of China,* September 21, 2001.

Surrogate Country

For purposes of the final determination, we continue to find that India is the appropriate primary surrogate country. For further discussion and analysis regarding the surrogate country selection, see Department's Preliminary Determination.

Use of Facts Available

For the reasons set forth in the Preliminary Determination, we have continued to apply facts available to certain aspects of Angang's and Benxi's analysis. *See Preliminary Determination,* 66 FR 22189. For a discussion of our application of facts available, see *Final Analysis Memorandum for Angang* at page 3 and *Final Analysis Memorandum for Benxi* at page 4. Specifically, for Angang and Benxi, we used facts available for the freight charge for certain inputs because freight distance was not provided by the respondents. *Id.* at 3 and 4.

Analysis of Comments Received

All issues raised in the case brief by parties to this investigation are addressed in the *Decision Memorandum,* which is hereby adopted by this notice. A list of the issues which parties raised, and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in B–099. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at http://ia.ita.doc.gov/frn/. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margin in this proceeding. *See Final Analysis Memorandum for Angang; Final Analysis Memorandum for Baosteel Group;* and *Final Analysis Memorandum for Benxi.*

Verification

As provided in section 782(i) of the Act, we verified the information submitted by each respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents. For changes from the Preliminary Determination as a result of verification, see *Final Analysis Memorandum for Angang; Final Analysis Memorandum for Baosteel Group;* and *Final Analysis Memorandum for Benxi.*

Scope of Investigation

For purposes of this investigation, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

ea vacuumAll products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, for example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.,* American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM

specification (sample specifications: ASTM A506, A507).

• Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this investigation is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by this investigation, including: Vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* in the **Federal Register.** The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted-average margin (percent)
Angang Group International Trade Corporation	69.85
Shanghai Baosteel Group Corporation	64.20
Benxi Iron & Steel Group Co., Ltd.	90.83
Panzhihua Iron & Steel (Group) Company	65.59
Wuhan Iron & Steel Group Corporation	65.59
PRC-Wide	90.83

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I

I. Changes from the Preliminary Determination
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[FR Doc. 01–24414 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–828]

Welded Large Diameter Line Pipe From Mexico: Postponement of Final Determination of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of final determination of antidumping duty investigation.

EFFECTIVE DATE: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Rick Johnson at (202) 482–3818; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Statutory Time Limits

Section 735(a)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to issue the final determination of an antidumping duty investigation within 75 days of the date of the preliminary determination. However, if a request is made in writing by exporters who account for a significant proportion of exports of the merchandise which is the subject of the investigation, in a proceeding in which the preliminary determination by the administering authority under section 733(b) was affirmative, section 735(a)(2) of the Act allows the Department to postpone the final determination until

not later than the 135th day after the date on which it published notice of its preliminary determination.

Background

On January 30, 2001, the Department initiated the above-referenced investigation. *See Notice of Initiation of Antidumping Duty Investigations: Welded Large Diameter Line Pipe from Mexico and Japan,* 66 FR 11266 (February 23, 2001). The preliminary determination was published in the **Federal Register** on August 15, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Mexico (''Preliminary Determination''),* 66 FR 42841 (August 15, 2001).

Extension of Final Determination

The respondent in this investigation has requested that the Department postpone by 60 days the final antidumping determination. Because this request was made consistent with section 735(a)(2)(A) of the Act, the Department is postponing the deadline for issuing this determination until December 28, 2001, which is 135 days after publication of the Preliminary Determination.

Dated: September 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–24415 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–821]

Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative countervailing duty investigation.

SUMMARY: On April 20, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of certain hot-rolled carbon steel flat products from India for the period April 1, 1999 through March 31, 2000.

The net subsidy rates in the *Final Determination* differ from those of the *Preliminary Determination*. The revised final net subsidy rates for the investigated companies are listed below in the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds at (202) 482–6071 or Robert Copyak at (202) 482–2209, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Background

On April 20, 2001, the Department published the preliminary results of investigation on certain hot-rolled carbon steel flat products from India. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination with Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 20240 (April 20, 2001) (*Preliminary Results*). This investigation covers the following manufacturer/exporters: Steel Authority of India Limited (SAIL), Essar Steel Limited (Essar), Ispat Industries Limited (Ispat), and the Tata Iron and Steel Company Limited (TISCO). The investigation covers the period April 1, 1999, through March 31, 2000. The investigation covers 10 programs.

We invited interested parties to comment on the *Preliminary Determination*. On August 20, 2001, we received comments from petitioners and respondents. On August 30, 2001, we received rebuttal comments from petitioners and respondents. At the request of the Department, respondents subsequently submitted revised rebuttal comments on September 6, 2001. A public hearing was held at the Department of Commerce on September 5, 2001.

The Government of India (GOI) submitted a proposed suspension agreement on April 20, 2001. The GOI proposed an agreement again on August 6, 2001. The Department did not accept the GOI's proposals.

Although the deadline for this determination was originally September 17, 2001, in light of the events of September 11, 2001, and the subsequent closure of the Federal Government for reasons of security, the timeframe for issuing this determination has been extended by four days.

Scope of the Investigation

The merchandise subject to this investigation is certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the *Harmonized Tariff Schedule of the United States (HTS)*, are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or

1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, ASTM specifications A543, A387, A514, A517, A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this investigation is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon-quality steel covered by this investigation, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) dated September 19, 2001, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://www.ia.ita.doc.gov, under the heading ''Federal Register Notices.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated individual rates for the companies under investigation. For the period April 1, 1999, through March 31, 2000, we determine the net subsidy rates for the investigated companies to be as follows:

Producer/Exporter	Net subsidy rate (percent *ad valorem*)
Essar Steel Limited (Essar)	8.32
Ispat Industries Limited (Ispat)	31.94
Steel Authority of India Limited (SAIL)	18.38
Tata Iron and Steel Company Limited (TISCO)	9.26
All Others Rate	16.17

As explained in the Decision Memorandum, we have applied the facts available rate to Jindal. To calculate the ''all others'' rate, we weight-averaged the individual rates of SAIL, Essar, TISCO, and Ispat by each company's respective sales of subject merchandise made to the United States during the POI.

Under § 351.526 of the regulations, the Department can adjust cash deposit rates to account for program-wide changes. During this investigation, the Department verified that two programs have been terminated subsequent to the POI. Therefore, we are adjusting the cash deposit rates to take into account these program-wide changes. Thus, in determining the cash deposit rates listed below, we have deducted the subsidies found for these two programs from the overall subsidy rate calculated for the investigated companies.

Producer/Exporter	Cash deposit rate (percent *ad valorem*)
Essar Steel Limited (Essar)	8.25
Ispat Industries Limited (Ispat)	31.89
Steel Authority of India Limited (SAIL)	18.22
Tata Iron and Steel Company Limited (TISCO)	9.17
All Others Rate	16.08

In accordance with our preliminary affirmative determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of certain hot-rolled carbon steel flat products from India, which were entered or withdrawn from warehouse, for consumption on or after April 20, 2001, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after August 18, 2001, but to continue the suspension of liquidation of entries made between April 20, 2001 and August 17, 2001.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are

making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publically or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

Methodology and Background Information

I. The Net Subsidy Rate Attributable to Jindal Vijaynagar Ltd.

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C. *Benchmarks for Loans and Discount Rate*

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C. *Advance Licenses*
D. *Special Import Licenses (SILs)*
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F. *Loans from the Steel Development Fund (SDF) Fund*
G. *The GOI's Forgiveness of SDF Loans Issued to SAIL*
H. *GOI Forgiveness of Other Loans Issued to SAIL*
I. *Loan Guarantees from the GOI*
J. *Exemption of Export Credit from Interest Taxes*

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Comment 5: Countervailability of Advance Licenses
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Comment 7: Program-Wide Changes
Comment 8: Income Tax Deductions under Section 80HHC of the Indian Tax Act
Comment 9: Uncreditworthy Allegations
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Comment 18: Guarantee Fees Charged by the GOI for Loans Obtained by SAIL from International Lending Institutions
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Comment 26: Calculation of TISCO's SDF Loans

[FR Doc. 01–24404 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–813]

Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Affirmative Countervailing Duty Investigation.

SUMMARY: On April 20, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of certain hot-rolled carbon steel flat products from Indonesia for the period January 1, 1999 through December 31, 1999.

The net subsidy rate in the *Final Determination* differs from that of the *Preliminary Determination.* The revised final net subsidy rate for the investigated company is listed below in the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore at (202) 482–3692 or Tipten Troidl at (202) 482–1767, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Background

On April 20, 2001, the Department published the preliminary results of investigation on certain hot-rolled carbon steel flat products from India. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From*

Indonesia, 66 FR 20236, (April 20, 2001) (*Preliminary Results*). This investigation covers one manufacturer/exporter: P.T. Krakatau Steel (Krakatau). The investigation covers the period January 1, 1999, through December 31, 1999. The investigation covers 2 programs.

We invited interested parties to comment on the *Preliminary Determination.* On August 10, 2001, we received comments from petitioners and respondents. On August 21, 2001, we received rebuttal comments from petitioners and respondents. A public hearing was held at the Department of Commerce on September 6, 2001.

Although the deadline for this determination was originally September 17, 2001, in light of the events of September 11, 2001, and the subsequent closure of the Federal Government for reasons of security, the time frame for issuing this determination has been extended by four days.

Scope of the Investigation

The merchandise subject to this investigation is certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.,* ASTM specifications A543, A387, A514, A517, A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this investigation is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon-quality steel covered by this investigation, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) dated September 19, 2001, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://www.ia.ita.doc.gov, under the heading ''Federal Register Notices.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for the company under investigation, Krakatau. The ''all others'' rate is the rate calculated for Krakatau, the sole company subject to this investigation. For the period January 1 1999, through

December 31, 1999, we determine the following net subsidy rates:

Producer/exporter	Net subsidy rate [percent]
P.T. Krakatau Steel ...	10.21 *Ad Valorem*.
All Others	10.21 *Ad Valorem*.

In accordance with our preliminary affirmative determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of certain hot-rolled carbon steel flat products from Indonesia, which were entered or withdrawn from warehouse, for consumption on or after April 20, 2001, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after August 18, 2001, but to continue the suspension of liquidation of entries made between April 20, 2001 and August 17, 2001.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publically or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

Methodology and Background Information

I. *Subsidies Valuation Information*
  A. *Allocation Period*
  B. *Creditworthiness and Calculation of Discount Rate*
  C. *Equityworthiness*

Analysis of Programs

I. *Programs Conferring Subsidies*
  A. *GOI Equity Infusions*
  B. *Two Step Loan*
II. *Program Determined To Be Not Countervailable*
III. *Program Determined To Be Not Used*
  A. *Rediscount Loans from the Bank of Indonesia*
IV. *Total Ad Valorem Rate*
V. *Analysis of Comments*
  Comment 1: Effects of Hyperinflation during 1998
  Comment 2: GOI's Equity Infusion to Krakatau
  Comment 3: GOI's Equity Infusion Specific to Krakatau
  Comment 4: Use of Consolidated Total Sales as the Denominator
  Comment 5: Feasibility Study and Equityworthiness
  Comment 6: Two Step Loan Program
  Comment 7: GOI Equity Infusions applying Adverse Facts Available
  Comment 8: Krakatau's Creditworthiness

[FR Doc. 01–24406 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–835]

Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Notice of Initiation of Changed Circumstances Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Changed Circumstances Countervailing Duty Administrative Review.

SUMMARY: On August 6, 2001, the Department of Commerce (''Department'') received a letter on behalf of the INI Steel Company (''INI''), formerly Inchon Iron and Steel Co., Ltd. (''Inchon''), notifying the Department that Inchon's corporate name has changed to INI Steel Company. INI requests that the Department initiate a changed circumstance administrative review to confirm that INI is the successor-in-interest to Inchon, and entitled to Inchon's rate.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or Richard Herring, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

In an August 6, 2001, letter to the Department, INI Steel Company, formerly Inchon Iron and Steel Co., Ltd., notified the Department that as of August 1, 2001, Inchon's corporate name had changed to INI Steel Company. INI stated that its owners, management structure, production facilities, supplier relationships and customer base are unchanged and unaffected by the adoption of the new corporate name. INI provided documentation to support the official adoption of a new corporation name consisting of: The minutes of Inchon's July 27, 2001 shareholders' meeting where the name change was approved; the Inchon District Court's official certification of the name change registered on July 31, 2001; and INI's Business Registration Certificate issued on August 1, 2001 by the Inchon Tax Office.

Scope of the Review

For purposes of this changed circumstances review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject

sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this review is classified in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81,[1] 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this review are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

The Department has determined that certain additional specialty stainless steel products are also excluded from the scope of this review. These excluded products are described below.

Flapper value steel is excluded from this review. Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this review. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this review. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[2]

Certain electrical resistance alloy steel is also excluded from the scope of this review. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (''ASTM'') specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[3]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this review. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (''UNS'') as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4

[1] Due to changes to the HTSUS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

[2] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[3] ''Gilphy 36'' is a trademark of Imphy, S.A.

mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[4]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this review. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.,* carpet knives).[5] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[6]

Initiation of Changed Circumstance CVD Review

At the request of INI, and in accordance with sections 751(b)(1) of the Act, and § 351.216 of the Department's regulations, the Department is initiating a changed circumstance review of stainless steel sheet and strip in coils from Korea to determine whether INI is the successor-in-interest to Inchon Iron and Steel, Co., Ltd.

The information submitted by INI shows changed circumstances sufficient to warrant a review under 19 CFR 351.216. We will publish in the **Federal Register** a notice of preliminary results of countervailing duty changed circumstances review, in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed based on those results. As per 351.221(b)(4), interested parties will have an opportunity to comment. The Department will issue its final results of review in accordance with the time limitations set forth in 19 CFR 351.216(e). All written comments must be submitted to the Department and served on all interested parties on the Department's service list in accordance with 19 CFR 351.303.

During the course of this changed circumstances review, we will not change any cash deposit instructions on the merchandise subject to this changed circumstances review, unless a change is determined to be warranted pursuant to the final results of this review.

This notice is in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.221.

Dated: September 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–24407 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–DS–P

[4] ''Durphynox 17'' is a trademark of Imphy, S.A.

[5] This list of uses is illustrative and provided for descriptive purposes only.

[6] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–842]

Structural Steel Beams From the Republic of Korea: Notice of Initiation of Changed Circumstances Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of changed circumstances countervailing duty administrative review.

SUMMARY: On August 6, 2001, the Department of Commerce (''Department'') received a letter on behalf of the INI Steel Company (''INI''), formerly Inchon Iron and Steel Co., Ltd. (''Inchon''), notifying the Department that Inchon's corporate name has changed to INI Steel Company. INI requests that the Department initiate a changed circumstance administrative review to confirm that INI is the successor-in-interest to Inchon, and excluded from the order.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or Richard Herring, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (2001).

Background

In an August 6, 2001, letter to the Department, INI Steel Company, formerly Inchon Iron and Steel Co., Ltd., notified the Department that as of August 1, 2001, Inchon's corporate name had changed to INI Steel Company. INI stated that its owners, management structure, production facilities, supplier relationships and customer base are unchanged and unaffected by the adoption of the new corporate name. INI provided documentation to support the official adoption of a new corporate name consisting of: The minutes of Inchon's July 27, 2001 shareholders' meeting where the name change was approved; the Inchon District Court's official certification of the name change registered on July 31, 2001; and INI's Business Registration Certificate issued on August 1, 2001 by the Inchon Tax Office.

Scope of the Review

The products covered by this review include structural steel beams that are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are not limited to, wide-flange beams (''W'' shapes), bearing piles (''HP'' shapes), standard beams (''S'' or ''I'' shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are

outside and/or specifically excluded from the scope of this investigation: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subjeadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Initiation of Changed Circumstance CVD Review

At the request of INI, and in accordance with sections 751(b)(1) of the Act, and section 351.216 of the Department's regulations, the Department is initiating a changed circumstance review of stainless steel sheet and strip in coils from Korea to determine whether INI is the successor-in-interest to Inchon Iron and Steel, Co., Ltd.

The information submitted by INI shows changed circumstances sufficient to warrant a review under 19 CFR 351.216. We will publish in the **Federal Register** a notice of preliminary results of countervailing duty changed circumstances review, in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed based on those results. As per 351.221(b)(4), interested parties will have an opportunity to comment. The Department will issue its final results of review in accordance with the time limitations set forth in 19 CFR 351.216(e). All written comments must be submitted to the Department and served on all interested parties on the Department's service list in accordance with 19 CFR 351.303.

During the course of this changed circumstances review, we will not change any cash deposit instructions on the merchandise subject to this changed circumstances review, unless a change it determined to be warranted pursuant to the final results of this review.

This notice is in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.221.

Dated: September 21, 2001.

Faryar Shirzad.

Assistant Secretary for Import Administration.

[FR Doc. 01–24405 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Channel Islands National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Channel Islands National Marine Sanctuary (CINMS or Sanctuary) is seeking applicants for the following six member and three alternate seats on its Sanctuary Advisory Council (Council): Recreation member, Business member and alternate, Public At-Large (2 members, 1 alternate), Fishing member, Conservation member, and Research alternate. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the conservation and management of marine resources; and the length of residence in the area affected by the Sanctuary. Applicants who are chosen should expect to serve three-year terms, pursuant to the Council's Charter.

DATES: Applications are due by November 5, 2001.

ADDRESSES: Application kits may be obtained from Michael Murray at the Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, California, 93109, or online at: www.cinms.nos.noaa.gov/sachome1.html. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Michael Murray at (805) 844–1464, or Michael.Murray@noaa.gov.

SUPPLEMENTARY INFORMATION: The CINMS Advisory Council was established in December 1998 to assure continued public participation in the management of the Sanctuary. Since its establishment, the Council has played a vital role in the decisions affecting the Sanctuary.

The Council's twenty voting members represent a variety of local user groups, as well as the general public, plus ten local, state and federal governmental jurisdictions. In addition, the respective managers of the four California National Marine Sanctuaries (Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and the Monterey Bay National Marine Sanctuary) participate as non-voting members.

The Council is currently supported by four working groups: the Conservation Working Group chaired by the Conservation representative, the Fishing Working Group chaired by the Fishing representative, the Ports and Harbors Working Group chaired by the Ventura County representative, and the Military Working Group chaired by the Department of Defense representative each respectively dealing with matters concerning the Sanctuary. The working groups are composed of experts from the appropriate fields of interest, serving as invaluable advisors to the Council and the Sanctuary Manager.

The Council represents the coordination link between the Sanctuary and the state and federal management agencies, user groups, researchers, educators, policy makers, and other various groups that help to focus efforts and attention on the marine ecosystems of the Channel Islands.

The Council functions in an advisory capacity to the Sanctuary manager and is instrumental in helping develop policies, program goals, and identify education, outreach, research, long-term monitoring, and resource protection priorities. The Council works in concert with the Sanctuary Manager by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Manager in achieving the goals of the Sanctuary program within the context of California's marine programs and policies.

Authority: 16 U.S.C. Section 1431 *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: September 24, 2001.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–24290 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and the U.S. Environmental Protection Agency.

ACTION: Notice of availability of proposed findings documents, environmental assessments, and findings of no significant impact on approval of coastal nonpoint pollution control programs for Georgia, Texas and Ohio.

SUMMARY: Notice is hereby given of the availability of the Proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact for Georgia, Texas, and Ohio. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval. The Findings Documents were prepared by NOAA and EPA to provide the rationale for the agencies' decision to approve each state and territory coastal nonpoint pollution control program. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. The Environmental Assessments were prepared by NOAA, pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. sections 4321 *et seq.,* to assess the environmental impacts associated with the approval of the coastal nonpoint pollution control program submitted to NOAA and EPA by Georgia, Texas, and Ohio.

NOAA and EPA have proposed to approve, with conditions, the coastal nonpoint programs submitted by Georgia, Texas and Ohio. The requirements of 40 CFR Parts 1500–1508 (Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act) apply to the preparation of these Environmental Assessments. Specifically, 40 CFR section 1506.6 requires agencies to provide public notice of the availability of environmental documents. This notice is part of NOAA's action to comply with this requirement.

Copies of the proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact may be found on the NOAA website at *http://www.ocrm.nos.noaa.gov/czm/6217/* or may be obtained upon request from: Joseph Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, MD 20910, phone (301) 713–3155, extension 201, e-mail joseph.flanagan@noaa.gov.

DATES: Individuals or organizations wishing to submit comments on the proposed Findings or Environmental Assessments should do so by October 29, 2001.

ADDRESSES: Comments should be made to: John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, MD 20910, phone (301) 713–3155 extension 195, e-mail john.king@noaa.gov.

FOR FURTHER INFORMATION CONTACT: For Georgia and Texas, Chris G. Rilling, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, MD 20910, phone (301) 713–3155, extension 198, e-mail chris.rilling@noaa.gov; for Ohio, Keelin S. Kuipers, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, MD 20910, phone (301) 713–3155, extension 175, e-mail keelin.kuipers@noaa.gov.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

Dated: September 21, 2001.

Margaret A. Davidson,

Acting Assistant, Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

G. Tracy Mehan III,

Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 01–24392 Filed 9–27–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Live Attenuated Virus Vaccine for Western Equine Encephalitis Virus, Eastern Equine Encephalitis Virus, and Venezuelan Equine Encephalitis Virus IE and IIIA Variants.

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made for availability for licensing of U.S. Patent No. 6,261,570 entitled ''Live Attenuated Virus Vaccine for Western Equine Encephalitis Virus, Eastern Equine Encephalitis Virus, and Venezuelan Equine Encephalitis Virus IE and IIIA Variants'' and issued July 17, 2001. Foreign rights are also available (PCT/US98/10645). This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: cDNAs coding for an infectious Western Equine Encephalitis virus (WEE) and infectious Venezuelan Equine Encephalitis virus variant IR (VEE IE) are disclosed in addition to cDNA coding for the structural proteins of Venezuelan Equine Encephalitis virus variant IIIA (VEE IIIA). Novel attenuating mutations of WEE and VEE IE and their uses are described. Also disclosed are attenuated chimearic alphavirus and their uses.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–24357 Filed 9–27–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusively Licensing of U.S. Patent Application Concerning Substituted Aromatic Compounds for Treatment of Antibiotic Resistant Infections

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application Serial No. 09/275,878 entitled ''Substituted Aromatic Compounds for Treatment of Antibiotic Resistant Infections'', filed March 25, 1999. Foreign rights are also available. This patent application has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: This invention relates to compounds useful for treating patients suffering from infections including gram positive organisms, such as streptococcus, staphylococcus, anthracis, gram negative bacteria such as neisseria species, yeasts and mycobacterium. They are effective against strains which have shown resistance to other antimicrobial agents.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–24358 Filed 9–27–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 27, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 24, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Criteria for distribution of the $225 Million FY 2001 Appropriation For School Improvement.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 832.

Abstract: To receive funds provided for school improvement in the FY 2001 appropriation, a State must submit information on the use of FY 2000 school improvement funds including (1) the names of the districts and schools that received FY 2000 funds and the allocation they received, (2) a description of the interventions that districts and schools have used to increase student achievement, (3) the number of students who transferred out of low-performing schools in districts receiving the FY 2000 school improvement funds as a result of the transfer requirement in the statute, and (4) the number of school districts receiving school improvement funds that subsequently met the State's adequate yearly progress targets.

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 Kathy Axt at (540) 776–7742 or via her internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–24301 Filed 9–27–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Direct Grant Programs

AGENCY: Department of Education.

ACTION: Notice reopening competitions or extending application deadline dates for certain direct grants.

SUMMARY: The Secretary reopens competitions or extends the deadline dates for the submission of applications for direct grants under several programs. All of the affected competitions are among those under which the Secretary is making new awards for fiscal year (FY) 2002. The Secretary takes this action to allow more time for the preparation and submission of applications by potential applicants who may have been precluded by terrorist attacks of September 11, 2001, from meeting previously announced

deadlines. The reopenings or extensions apply to all eligible applicants for the competitions listed in this notice.

DATES: The new deadline date for transmitting applications under each competition is listed with that competition on the chart in this notice.

If the program in which you are interested is subject to Executive Order 12372, the deadline date for the transmittal of State process recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties remains as originally announced.

ADDRESSES: The address and telephone number for obtaining applications for, or information about, an individual competition are in the application notice for that program. We have listed the date and **Federal Register** citation of the application notice for each competition on the chart in this notice.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number, if any, listed in the individual application notice. If we have not listed a TDD number, you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

If you want to transmit a recommendation or comment under Executive Order 12372, you can find the latest list and addresses of individual SPOCs on the Web site of the Office of Management and Budget at the following address:

http://www.whitehouse.gov/omb/grants

SUPPLEMENTARY INFORMATION: The following is specific information about each competition covered by this notice:

LIST OF PROGRAMS AFFECTED

CFDA No. and Name	Publication date and Federal Register citation	Original deadline date for applications	Revised deadline date for applications
Office of Vocational and Adult Education.			
84.353A Tech-Prep Demonstration Program	7/09/01 (66 FR 35862)	9/17/01	*10/12/01
Office of Postsecondary Education.			
84.066A Educational Opportunity Centers	6/11/01 (66 FR 31338)	9/28/01	10/12/01
Office of Special Education and Rehabilitative Services.			
84.133F Research Fellowships Program	7/31/01 (66 FR 39610)	10/09/01	11/13/01
84.133G Field-Initiated Projects	7/31/01 (66 FR 39612)	10/09/01	11/13/01
84.133P Field-Initiated Projects	7/31/01 (66 FR 39612)	10/09/01	11/13/01

*Electronic applicants should be aware that e-Application will not be available for processing of applications on October 1, 2001, but will be available following that date and through the 10/12/01 deadline.

If you are an individual with a disability, you may obtain a copy of this notice in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the individual application notices.

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Dated: September 25, 2001.

Mark Carney,

Deputy Chief Financial Officer.

[FR Doc. 01–24418 Filed 9–25–01; 3:54 pm]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No. 84.220A]

Office of Postsecondary Education; Centers for International Business Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The Centers for International Business Education Program provides grants to eligible applicants to pay the Federal share of the cost of planning, establishing, and operating centers for international business education which—

(1) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted;

(2) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners; and

(3) will provide research and training in the international aspects of trade, commerce, and other fields of study.

Eligible Applicants: Institutions of higher education and combinations of institutions of higher education.

Applications Available: September 28, 2001.

Deadline for Transmittal of Applications: November 5, 2001.

Deadline for Intergovernmental Review: January 4, 2002.

Estimated Available Funds: The Administration has requested $8,760,000 for this program for FY 2002. The actual level of funding, if any, will depend on final congressional action. However, we are inviting applications to allow enough time to process the applications and make the awards if Congress appropriates funds for this program.

Estimated Range of Awards: $220,000–$340,000.

Estimated Average Size of Awards: $312,857 per year.

Estimated Number of Awards: 28.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, 86, 97, 98 and 99 as applicable. (b) As there are no program-specific regulations, applicants are encouraged to read the authorizing statute for the Centers for International Business Education Program in section 612 of Title VI, Part B, of the Higher Education Act of 1965, as amended, (HEA), 20 U.S.C. 1130–1.

SUPPLEMENTARY INFORMATION: Matching requirement: Under Title VI, Part B, section 612(e)(2) of the HEA, the Federal share of the cost of planning, establishing, and operating centers under this section shall be:

(1) Not more than 90 percent for the first year in which Federal funds are received;

(2) Not more than 70 percent for the second year; and

(3) Not more than 50 percent for the third year and for each year thereafter.

(4) Applicants who have received previous grants must match 50 percent of the costs of projects for each fiscal year. The non-Federal share may be either in cash or in-kind assistance. Example: If the total cost of the proposed project is $300,000 in the first year, a new applicant can only request a grant for $270,000 or less in the first year, and must provide the remaining 10 percent ($30,000) in cash or in-kind contributions. If the total cost of the project for the second year is $350,000, the applicant can only request $245,000 or less, and must provide the remaining 30 percent ($105,000). For both the third and fourth years, if the total cost of the project is $400,000, the applicant can only request $200,000 or less, and must provide the remaining 50 percent ($200,000). All applicants who have received funding in prior years must provide 50 percent per year for each of the four years of the project.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Susanna Easton, Centers for International Business Education Program, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street, NW., Suite 600, Washington, DC 20006–8521. Telephone: 202–502–7628 or via Internet: susanna.easton@ed.gov If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 1130–1.

Dated: September 24, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–24265 Filed 9–27–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.337A]

Office of Postsecondary Education; Technological Innovation and Cooperation for Foreign Information Access Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The Technological Innovation and Cooperation for Foreign Information Access Program provides grants to support projects that will develop innovative techniques or programs using new electronic technologies to collect, organize, preserve, and widely disseminate information on world regions and countries other than the United States that address our Nation's teaching and research needs in international education and foreign languages.

Eligible Applicants: Institutions of higher education, public or nonprofit private libraries, or consortia of these institutions or libraries. applications available:

Applications Available: October 10, 2001.

Deadline for Transmittal of Applications: November 30, 2001.

Deadline for Intergovernmental Review: January 29, 2002.

Estimated Available Funds: The Administration has requested $1,300,000 for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process, if Congress appropriates funds for this program.

Estimated Range of Awards: $105,000–$230,000.

Estimated Average Size of Awards: $216,000 per year.

Estimated Number of Awards: 6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Note: As there are no program-specific regulations, we encourage each potential applicant to read the authorizing statute for the Technological Innovation and Cooperation for Foreign Information Access Program in section 606 of title VI, part A, of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1126.

SUPPLEMENTARY INFORMATION: Matching requirement: Under section 606(d) of the HEA, the Federal share of the total cost of carrying out a program may not exceed 66⅔ percent. The non-Federal share of the total cost may be provided either in-kind or in cash and may include contributions from private sector corporations or foundations. Example: The estimated project cost will be $290,000 per year. The institution may request a grant of $193,314. The institution must provide the remaining $96,686 in cash or in-kind contributions.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Susanna Easton, Technological Innovation and Cooperation for Foreign Information Access Program, International Education and Graduate Programs Service, 1990 K Street, NW., Suite 600, Washington, DC 20006–8521. Telephone: (202) 502–7628 or via Internet: *susanna.easton@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call

the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 1126.

Dated: September 25, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–24419 Filed 9–27–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Grant Applications Under Part D, Subpart 2 of the Individuals With Disabilities Education Act

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2002.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for FY 2002 competitions under three programs authorized by the Individuals with Disabilities Education Act (IDEA), as amended. The three programs are: (1) Special Education—Research and Innovation to Improve Services and Results for Children with Disabilities (five priorities); (2) Special Education—Technology and Media Services for Individuals with Disabilities (one priority); and (3) Special Education—Training and Information for Parents of Children with Disabilities (one priority).

National Education Goals

The eight National Education Goals focus the Nation's education reform efforts and provide a framework for improving teaching and learning.

These priorities address the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally our practice to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice.

General Requirements

(a) The projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see section 661(f)(1)(A) of IDEA).

(c) The projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

(d) In a single application, an applicant must address only one absolute priority in this notice.

(e) Part III of each application submitted under a priority in this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed under each applicable priority and in the table at the end of this notice, using the following standards:

- A ''page'' is 8.5″ × 11″ (on one side only) with one-inch margins (top, bottom, and sides).
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.
- If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters per inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject without consideration or evaluation any application if —

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

RESEARCH AND INNOVATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES [CFDA 84.324]

Purpose of Program: To produce, and advance the use of, knowledge to improve educational and early intervention results and outcomes for infants, toddlers, and children with disabilities.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; and Indian tribes or tribal organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86, 97, 98, and 99; (b) The selection criteria for the priorities under this program that are drawn from the EDGAR general selection criteria menu. The specific selection criteria for each priority are included in the funding application packet for the applicable competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

PRIORITY

Under 34 CFR 75.105(c)(3), we consider only applications that meet one of the following priorities:

Absolute Priority 1—Student-Initiated Research Projects (84.324B)

This priority provides support for short-term (up to 12 months) postsecondary student-initiated research projects focusing on special education and related services for children with disabilities and early intervention services for infants and toddlers with

disabilities, consistent with the purposes of the program, as described in section 672 of the Act.

Projects must—

(a) Develop research skills in postsecondary students; and

(b) Include a principal investigator who serves as a mentor to the student researcher while the project is carried out by the student.

Project Period: Up to 12 months.

Maximum Award: The maximum award amount is $20,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Page Limits: The maximum page limit for this priority is 25 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 2—Field-Initiated Research Projects (84.324C)

This priority provides support for a wide range of field-initiated research projects that support innovation, development, exchange, and use of advancements in knowledge and practice as described in section 672 of the Act including the improvement of early intervention, instruction, and learning for infants, toddlers, and children with disabilities.

Projects must—

(a) Prepare their procedures, findings, and conclusions in a manner that will improve results and outcomes for children with disabilities by informing other interested researchers and advancing professional practice or improving programs and services to infants, toddlers, and children with disabilities and their families; and

(b) Disseminate project procedures, findings, and conclusions to appropriate research institutes and technical assistance providers.

Invitational Priorities

Within absolute priority 2 for FY 2002, we are particularly interested in applications that meet one or more of the following invitational priorities.

However, under 34 CFR 75.105(c)(1) we do not give to an application that meets one or more of these invitational priorities a competitive or absolute preference over other applications.

(a) Projects to address the specific problems of over-identification and under-identification of children with disabilities. (See section 672(a)(3) of the Act).

(b) Projects to develop and implement effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services. (See section 672(a)(4) of the Act).

(c) Projects studying and promoting improved alignment and compatibility of regular and special education reforms concerned with curriculum and instruction, evaluation and accountability, and administrative procedures in order to improve results and outcomes for children with disabilities. (See section 672(b)(2)(D) of the Act).

(d) Projects that advance knowledge about the coordination of education with health and social services in order to improve results and outcomes for children with disabilities and their families. (See section 672(b)(2)(G) of the Act).

Competitive Preference

Within this absolute priority, we will give the following competitive preference points under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, within this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: The majority of projects will be funded for up to 36 months. Only in exceptional circumstances—such as research questions that require repeated measurement within a longitudinal design—will projects be funded for more than 36 months, up to a maximum of 60 months.

Maximum Award: The maximum award amount is $180,000. Consistent with EDGAR (34 CFR 75.104(b)), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 3—Model Demonstration Projects for Children with Disabilities (84.324M)

This priority supports model demonstration projects that improve results and outcomes for children with disabilities. Projects must develop, implement, evaluate, and disseminate new or improved approaches for providing early intervention, special education, and related services to infants, toddlers, and children with disabilities and students with disabilities who are pursuing post-school employment, postsecondary education, or independent living goals. Projects supported under this priority are expected to be major contributors of models or components of models for service providers and for outreach projects funded under IDEA.

REQUIREMENTS FOR ALL DEMONSTRATION PROJECTS

A model demonstration project must—

(a) Develop and implement the model with specific components or strategies that are based on theory, research, or evaluation data documenting improved results and outcomes;

(b) Determine the effectiveness of the model and its components or strategies by using multiple measures of results; and

(c) Produce detailed procedures and materials that would enable others to replicate the model.

Federal financial participation for a project funded under this priority will not exceed 90 percent of the total annual costs of development, implementation, evaluation, and dissemination of the project (see section 661(f)(2)(A) of IDEA).

In addition to the annual two-day Project Directors' meeting in Washington, DC mentioned in the ''General Requirements'' section of this notice, projects must budget for another annual meeting in Washington, DC to collaborate with the Federal project officer and the other projects funded under this priority, to share information and discuss model development, implementation, evaluation, and dissemination issues.

Competitive Preferences

Within this absolute priority, we will give the following competitive

preference points under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Up to 48 months.

Maximum Award: The maximum award amount is $175,000. Consistent with EDGAR (34 CFR 75.104(b)), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Page Limit: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 4—Initial Career Awards (84.324N)

Background

There is a need to enable individuals in the initial phases of their careers to initiate and develop promising lines of research that would improve results and outcomes for children with disabilities and their families through better early intervention services for infants and toddlers, and special education and related services for children with disabilities. Support for research activities among individuals in the initial phases of their careers is intended to develop the capacity of the early intervention and special education research community to more effectively meet the needs of children with disabilities and their families. This priority would address the additional need to provide support for a broad range of field-initiated research projects—focusing on the special education and related services for children with disabilities and early intervention for infants and toddlers—consistent with the purpose of the program as described in section 672 of the Act.

Priority: The purpose of this priority is to award grants to eligible applicants for the support of individuals in the initial phases of their careers to initiate and develop promising lines of research consistent with the purposes of the program. For purposes of this priority, the initial phase of an individual's career is considered to be the first three years after completing a doctoral program and graduating (i.e., for fiscal year 2002 awards, projects may support individuals who completed a doctoral program and graduated no earlier than the 1998–1999 academic year).

At least 50 percent of the initial career researcher's time must be devoted to the project.

Projects must—

(a) Pursue a line of research that is developed either from theory or a conceptual framework. The line of research must establish directions for designing future studies extending beyond the support of this award. The project is not intended to represent all inquiry related to the particular theory or conceptual framework; rather, it is expected to initiate a new line or advance an existing one;

(b) Include, in design and conduct, sustained involvement with one or more nationally recognized experts having substantive or methodological knowledge and expertise relevant to the proposed research. The experts do not have to be at the same institution or agency at which the project is located, but the interaction with the project must be sufficient to develop the capacity of the initial career researcher to effectively pursue the research into mid-career activities;

(c) Prepare procedures, findings, and conclusions in a manner that improve results and outcomes for children with disabilities by informing other interested researchers and is useful for advancing professional practice or improving programs and services to infants, toddlers, and children with disabilities and their families; and

(d) Disseminate project procedures, findings, and conclusions to appropriate research institutes and technical assistance providers.

Invitational Priority

Within absolute priority 4 for FY 2002, we are particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) we do not give to an application that meets the priority a competitive or absolute preference over other applications.

Projects that include, in the design and conduct of the research project, a practicing teacher or clinician, in addition to the required involvement of nationally recognized experts.

Project Period: Up to 36 months.

Maximum Award: The maximum award amount is $75,000. Consistent with EDGAR (34 CFR 75.104(b)), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Page Limits: The maximum page limit for this priority is 30 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 5—Outreach Projects for Children with Disabilities (84.324R)

This priority supports projects that will improve results and outcomes by assisting educational and other agencies in replicating proven models, components of models, and other exemplary practices that improve services for infants, toddlers, children with disabilities, and students with disabilities who are pursuing post-school employment, postsecondary education, or independent living goals.

For the purposes of this priority, a ''proven model'' is a comprehensive description of a theory or system that, when applied, has been shown to be effective by evidence of improved results and outcomes. ''Exemplary practices'' are effective strategies and methods used to deliver educational, related, or early intervention services. The models, components of models, or exemplary practices selected for outreach may include those developed for pre-service and in-service personnel preparation, and do not need to have been developed through projects funded under IDEA, or by the applicant.

Important elements of an outreach project include but are not limited to:

(a) Providing supporting data or other documentation in the application regarding the effectiveness of the model, components of a model, or exemplary practices selected for outreach;

(b) Selecting implementation sites in multiple regions within one State or multiple States and describing the criteria for their selection;

(c) Describing the expected costs, needed personnel, staff training, equipment, and sequence of implementation activities associated with the replication efforts, including a description of any modifications to the model or practice made by the sites;

(d) Including public awareness, product development and dissemination, training, and technical assistance activities as part of the implementation of the project; and

(e) Coordinating dissemination and replication activities conducted as part of outreach with dissemination projects, technical assistance providers, consumer and advocacy organizations, State and local educational agencies, and the lead agencies for Part C of IDEA, as appropriate.

Projects must prepare products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities. (See section 661(f)(2)(B) of IDEA).

Federal financial participation for a project funded under this priority will not exceed 90 percent of the total annual costs of development, operation, and evaluation of the project (see section 661(f)(2)(A) of IDEA).

Applicants must (1) specify in the application whether the primary focus of the models, components of models, or exemplary practices intended for outreach are for pre-service or in-service personnel preparation, and (2) specify the use of scientifically based research demonstrating improved results and outcomes for children with disabilities and their families.

In addition to the annual two-day Project Directors' meeting in Washington, DC mentioned in the ''General Requirements'' section of this notice, projects must budget annually for another annual meeting in Washington, DC to collaborate with the Federal project officer and the other projects funded under this priority, to share information and discuss project implementation issues.

Competitive Preference

Within this absolute priority, we will give the following competitive preference points under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Up to 36 months.

Maximum Award: The maximum award amount is $175,000. Consistent with EDGAR (34 CFR 75.104(b)), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

TECHNOLOGY AND MEDIA SERVICES FOR INDIVIDUALS WITH DISABILITIES [CFDA 84.327]

Purpose of Program: The purpose of this program is to improve results and outcomes for children with disabilities by promoting the development, demonstration, and utilization of technology and to support educational media activities designed to be of educational value to children with disabilities. This program also provides support for some captioning, video description, and cultural activities.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; (b) The selection criteria for the priorities under this program that are drawn from the EDGAR general selection criteria menu. The specific selection criteria for each priority are included in the funding application packet for the applicable competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

PRIORITY

Under section 687 of IDEA and 34 CFR 75.105(c)(3), we consider only applications that meet the following priority:

Absolute Priority 1—Steppingstones of Technology Innovation for Students With Disabilities (84.327A)

The purpose of this priority is to support projects that—

(a) Develop or select and describe a technology-based approach for achieving one or more of the following purposes for early intervention, preschool, elementary, middle school, or high school students with disabilities: (1) improving the results of education or early intervention; (2) improving access to and participation in the general curriculum, or developmentally appropriate activities for preschool children; and (3) improving accountability and participation in educational reform. The technology-based approach must be an innovative combination of a new technology and additional materials and methodologies that enable the technology to improve educational or early intervention results and outcomes for children with disabilities;

(b) Justify the approach on the basis of scientifically rigorous research or theory that supports the effectiveness of the technology-based approach for achieving one or more of the purposes presented in paragraph (a);

(c) Clearly identify and conduct work in *ONE* of the following phases:

(1) *Phase 1—Development:* Projects funded under Phase 1 must develop and refine a technology-based approach, and test its feasibility for use with students with disabilities. Activities may include development, adaptation, and refinement of technology, curriculum materials, or instructional methodologies. Activities must include formative evaluation. The primary product of Phase 1 should be a promising technology-based approach that is suitable for field-based evaluation of effectiveness in improving results and outcomes for children with disabilities.

(2) *Phase 2—Research on Effectiveness:* Projects funded under Phase 2 must select a promising technology-based approach that has been developed in a manner consistent with Phase 1, and subject the approach to rigorous field-based research and evaluation to determine effectiveness and feasibility in educational or early intervention settings. Approaches studied in Phase 2 may have been developed with previous funding under this priority or with funding from other sources. Products of Phase 2 include a further refinement and description of the technology-based approach, and sound evidence that, in a defined range of real world contexts, the approach can

be effective in achieving one or more of the purposes presented in paragraph (a).

(3) *Phase 3—Research on Implementation:* Projects funded under Phase 3 must select a technology-based approach that has been evaluated for effectiveness and feasibility in a manner consistent with Phase 2, and must study the implementation of the approach in multiple, complex settings to acquire an improved understanding of the range of contexts in which the approach can be used effectively, and the factors that determine the effectiveness and sustainability of the approach in this range of contexts. Approaches studied in Phase 3 may have been developed and tested with previous funding under this priority or with funding from other sources. Factors to be studied in Phase 3 include factors related to the technology, materials, and methodologies that constitute the technology-based approach. Also to be studied in Phase 3 are contextual factors associated with students, teacher attitudes and skills, physical setting, curricular and instructional or early intervention approaches, resources, professional development, policy supports, etc. Phases 2 and 3 can be contrasted as follows: Phase 2 studies the effectiveness the approach can have, while Phase 3 studies the effectiveness the approach is likely to have in sustained use in a range of typical educational settings. The primary product of Phase 3 should be a set of research findings that provide evidence of improved results and outcomes for children with disabilities and that can be used to guide dissemination and utilization of the technology-based approach;

(d) In addition to the annual two-day Project Directors' meeting in Washington, DC mentioned in the ''General Requirements'' section of this notice, budget for another annual trip to Washington, DC to collaborate with the Federal project officer and the other projects funded under this priority, and to share information and discuss findings and methods of dissemination; and

(e) Prepare products from the project in formats that are useful for specific audiences as appropriate, including parents, administrators, teachers, early intervention personnel, related services personnel, researchers, and individuals with disabilities.

Projects for Children From Birth to 3: We intend to fund at least two projects focusing on technology-based approaches for children with disabilities, ages birth to 3.

Competitive Preference

Within this absolute priority, we will give the following competitive preference points under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: We intend to fund at least three projects in each phase. Projects funded under Phase 1 will be funded for up to 24 months. Projects funded under Phase 2 will be funded for up to 24 months. Projects funded under Phase 3 will be funded for up to 36 months. During the final year of projects funded under Phase 3, we will determine whether or not to fund an optional six-month period for additional dissemination activities.

Maximum Award: The maximum award amount is $200,000 for projects in Phases 1 and 2, and $300,000 for projects in Phase 3. Consistent with EDGAR (34 CFR 75.104(b)), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

SPECIAL EDUCATION—TRAINING AND INFORMATION FOR PARENTS OF CHILDREN WITH DISABILITIES (CFDA No. 84.328)

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results and outcomes for their children.

Eligible Applicants: Eligible applicants are local parent organizations. According to section 682(g) of the Act, a parent organization is a private nonprofit organization (other than an institution of higher education) that:

(a) Has a board of directors —

(1) The parent and professional members of which are broadly representative of the population to be served;

(2) The majority of whom are parents of children with disabilities; and

(3) That includes individuals with disabilities and individuals working in the fields of special education, related services, and early intervention; or

(b) Has a membership that represents the interests of individuals with disabilities and has established a special governing committee meeting the requirements for a board of directors in paragraph (a) and has a memorandum of understanding between this special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

According to section 683(c) of the Act, local parent organizations are parent organizations that must meet one of the following criteria—

(a) Have a board of directors the majority of whom are from the community to be served; or

(b) Have, as part of their mission, serving the interests of individuals with disabilities from that community; and have a special governing committee to administer the project, a majority of the members of which are individuals from that community.

Examples of administrative responsibilities include controlling the use of the project funds, and hiring and managing project personnel.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99; and (b) The selection criteria for this priority that are drawn from the EDGAR general selection criteria menu. The specific selection criteria for this priority are included in the funding application packet for this competition.

PRIORITY

Under sections 661(e)(2) and 683 of the Act, and 34 CFR 75.105(c)(3), we will give an absolute preference to applications that meet this absolute priority:

Absolute Priority—Community Parent Resource Centers (84.328C)

The purpose of this priority is to support local parent training and

information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children who are English language learners, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities to—

(a) Meet established developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and

(b) Be prepared to lead productive independent adult lives, to the maximum extent possible.

Each community parent training and information center supported under this priority must—

(a) Provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the project, particularly underserved parents and parents of children who may be inappropriately identified;

(b) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under section 615 of the Act, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in the Act;

(c) Serve the parents of infants, toddlers, and children with the full range of disabilities by assisting parents to—

(1) Better understand the nature of their children's disabilities and their educational and developmental needs;

(2) Communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(3) Participate in decisionmaking processes and the development of individualized education programs and individualized family service plans;

(4) Obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(5) Familiarize themselves with the provision of special education and related services in the areas they serve to help ensure that children with disabilities are receiving appropriate services;

(6) Understand the provisions of the Act for the education of, and the provision of early intervention services designed to improve results and outcomes to, children with disabilities; and

(7) Participate in school reform activities;

(d) Contract with the State educational agencies, if the State elects to contract with the community parent resource centers, for the purpose of meeting with parents who choose not to use the mediation process to encourage the use and explain the benefits of mediation, consistent with section 615(e)(2)(B) and (D) of the Act;

(e) In order to serve parents and families of children with the full range of disabilities, network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d) of the Act, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies;

(f) Establish cooperative partnerships with the parent training and information centers funded under section 682 of the Act;

(g) Be designed to meet the specific needs of families who experience significant isolation from available sources of information and support; and

(h) Annually report to the Department on—

(1) The number of parents to whom it provided information and training in the most recently concluded fiscal year, demographic information about those parents served; and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities by providing evidence of how those parents were served effectively.

We intend to fund a maximum of 15 awards.

Competitive Preferences

Within this absolute priority, we will give competitive preference to applications under 34 CFR 75.105(c)(2)(i) that meet one or more of the following priorities:

(a) We will award 20 points to an application submitted by a local parent organization that has a board of directors, the majority of whom are parents of children with disabilities, from the community to be served.

(b) We will award 5 points to an application that proposes to provide services to one or more Empowerment Zones or Enterprise Communities that are designated within the areas served by projects. To meet this priority an applicant must indicate that it will:

(1)(i) Design a program that includes special activities focused on the unique needs of one or more Empowerment Zones or Enterprise Communities; or

(ii) Devote a substantial portion of program resources to providing services within, or meeting the needs of residents of these zones and communities.

(2) As appropriate, contribute to the strategic plan of the Empowerment Zones or Enterprise Communities and become an integral component of the Empowerment Zone or Enterprise Community activities.

A list of areas that have been selected as Empowerment Zones or Enterprise Communities is included in the application packet.

(c) We will award up to five (5) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice (section 606 of IDEA). In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of these competitive preferences, applicants can be awarded up to a total of 30 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting all of these competitive preferences could earn a maximum total of 130 points.

Project Period: Up to 36 months.

Maximum Award: The maximum award amount is $100,000. Consistent with EDGAR (34 CFR 75.104(b)), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Page Limits: The maximum page limit for this priority is 30 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED-Pubs (1–877–433–7827). FAX: 301–470–1244. Individuals who use a telecommunications device for the deaf (TDD) may call (toll free) 1–877–576–7734.

You may also contact Ed Pubs via its Web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

If you request an application from ED Pubs, be sure to identify the competition by the appropriate CFDA number.

For Further Information Contact: Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317,

Switzer Building, Washington, DC 20202–2550. Telephone: (202) 260–9182.

If you use a TDD you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Department as listed above. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Intergovernmental Review

All programs in this notice (except for the Research and Innovation to Improve Services and Results for Children with Disabilities Program) are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for those programs.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FISCAL YEAR 2002

CFDA No. and Name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year)*	Project period	Page limit**	Estimated number of awards
84.324B Student Initiated Research Projects.	10/05/01	02/08/02	04/09/02	$20,000	Up to 12 mos.	25	12
84.324C Field-Initiated Research Projects.	10/05/01	11/16/01	01/16/02	180,000	***Up to 60 mos.	50	14
84.324M Model Demonstration Projects for Children with Disabilities.	10/05/01	11/30/01	01/30/02	175,000	Up to 48 mos.	50	14
84.324N Initial Career Awards	10/05/01	11/09/01	01/09/02	75,000	Up to 36 mos.	30	4
84.324R Outreach Projects for Children with Disabilities.	10/05/01	12/14/01	02/12/02	175,000	Up to 36 mos.	50	14
84.324A Steppingstones of Technology Innovation for Students with Disabilities.	10/05/01	12/07/01	02/05/02	.....	.....		10
Phase 1 and 2	.....	.....	.....	200,000	Up to 24 mos.	50	
Phase 3	.....	.....	.....	300,000	Up to 36 mos.	50	
84.328C Community Parent Resource Centers.	10/05/01	12/21/01	02/19/02	100,000	Up to 36 mos.	30	10

*Consistent with EDGAR (34 CFR 75.104(b)), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities. ** Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the "Page Limit" requirements and the page limit standards described in the "General Requirements" section included under each priority description. We will reject and will not consider an application that does not adhere to this requirement. ***The majority of projects will be funded for up to 36 months. Only in exceptional circumstances will projects be funded for more than 36 months, up to a maximum of 60 months.

Electronic Access to This Document

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To use the PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo/nara/index.html

Program Authority: 20 U.S.C. 1405, 1461, 1472, 1474, and 1487.

Dated: September 25, 2001.

Robert H. Pasternack,

Assistant Secretary for Special Education and, Rehabilitative Services.

[FR Doc. 01–24403 Filed 9–27–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–002–000, FERC Form 2]

Proposed Information Collection and Request for Comments

September 24, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before November 27, 2001.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at *mike.miller@ferc.fed.us*.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC Form 2 ''Annual Report for Major Natural Gas Companies'' (OMB No. 1902–0028) is used by the Commission to implement the statutory provisions of the Natural Gas Act (NGA) 15 U.S.C. 717. The FERC Form 2 is a financial and operating report for natural gas rate regulation for major pipeline owners. ''Major'' is defined as companies having combined gas sold for resale and gas transported or stored for a fee that exceeds 50 million Dth in each of the three previous calendar years. Under the Form 2, the Commission investigates, collects and records data and prescribes rules and regulations concerning accounts, records and memoranda as necessary to administer the NGA. The Commission is empowered to prescribe a system of accounts for jurisdictional gas pipelines and after notice and opportunity for hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited.

Commission staff uses the data in the continuous review of the financial condition of jurisdictional companies, in various rate proceedings and in the Commission's audit program. FERC Form 2 data are also used to compute annual charges which are assessed against each jurisdictional natural gas pipeline and which are necessary to recover the Commission's annual costs.

The NGA mandates the collection of information needed by the Commission to perform its regulatory responsibilities in the setting of just and reasonable rates. The Commission could be held in violation of the NGA if the information was not collected.

The annual financial information filed with the Commission is a mandatory requirement submitted in a prescribed format which is filed electronically and on paper. The Commission implements these filing requirements in 18 CFR parts 158, 201, 260.1 and 385.2011.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
57	1	1,485	84,645

Estimated cost burden to respondents: 86,130 hours/2,080 hours per year × $117,041 per year = $4,762,949. The cost per respondent is equal to $83,561.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The cost estimate for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond.

David P. Boergers,

Secretary.

[FR Doc. 01–24293 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–73–000, FERC Form 73]

Proposed Information Collection and Request for Comments

September 24, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before November 27, 2001.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information

Officer, CI–1, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at *mike@ferc.fed.us.*

SUPPLEMENTARY INFORMATION: The information collected under FERC Form73 ''Oil Pipelines Service Life Data'' (OMB No. 1902–0019) is used by the Commission to implement the statutory provisions governed by Sections 306 and 402 of the Department of Energy Organization Act 42 U.S.C. 7155 and 7172, and Executive Order No. 12009, 42 FR 46277 (September 13, 1977). The Commission has authority over interstate oil pipelines as stated in the Interstate Commerce Act, 49 U.S.C. 6501 *et al.* As part of the information necessary for the subsequent investigation and review of the oil pipeline company's proposed depreciation rates, the pipeline companies are required to provide service life data as part of their data submissions if the proposed depreciation rates are based on remaining physical life calculations. This service life data submitted on FERC Form 73.

The data submitted are used by the Commission to assist in the selection of appropriate service lives and book depreciation rates. Book depreciation rates are used by oil pipeline companies to compute the depreciation portion of their operating expense which is a component of their cost of service which is turn is used to determine the transportation rate to assess customers. Staff's recommended book depreciation rates become legally binding when issued by Commission Order. These rates remain in effect until a subsequent review is requested and the outcome indicates that a modification is justified. The Commission implements these filing requirements in 18 CFR 347 and 357.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
2	1	40	80

Estimated cost burden to respondents: 80 hours/2,080 hours per year × $117,041 per year = $4,501. The cost per respondent is equal to $2251.

The cost estimate for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

The reporting burden includes the total time, effort, or financial resources expended to assemble and disseminate the information including: (1) Reviewing the instructions; (2) developing, or acquiring appropriate technological support systems necessary for the purposes of collecting, validating, processing, and disseminating the information; (3) administration; and (4) transmitting, or otherwise disclosing the information.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's burden estimate of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

David P. Boergers,

Secretary.

[FR Doc. 01–24295 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–550–000, FERC–550]

Proposed Information Collection and Request for Comments

September 24, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted within 60 days of the publication of this notice.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at *mike.miller@ferc.fed.us.*

SUPPLEMENTARY INFORMATION: The information collected under FERC Form 550 ''Oil Pipeline Rates: Tariff Filings'' (OMB No. 1902–0089) is used by the Commission to implement the statutory provisions governed by Part I, Sections 1, 6 and 15 of the Interstate Commerce Act (ICA)(PL. No. 337, 34 Stat. 384). Jurisdiction over oil pipelines, as it relates to the establishment of rates or charges for the transportation of oil by pipeline or the establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission (ICC) to FERC, pursuant to Section 306 and 402 of the Department of Energy Organization Act (DOE Act), 42 U.S.C. 7155 and 7172 and Executive Order No. 12009, 42 FR 46267 (September 15, 1977).

The filing requirements provide the basis for analysis of all rates, fares, or charges whatsoever demanded, charged or collected by any common carrier or carriers in connection with the transportation of crude oil and petroleum products and are used by the Commission to establish a basis for

determining the just and reasonable rates that should be charged by the regulated pipeline company. Based on this analysis, a recommendation is made to the Commission to take action whether to suspend, accept or reject the proposed rate. The data required to be filed for pipeline rates and tariff filings are specified in 18 CFR 340–348.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
200	3	11	6,600

Estimated cost burden to respondents: 6,600 hours/2,080 hours per year × $117,041 per year = $371,380. The cost per respondent is equal to $ 1,856.

The cost estimate for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

The reporting burden includes the total time, effort, or financial resources expended to assemble and disseminate the information including: (1) Reviewing the instructions; (2) developing, or acquiring appropriate technological support systems necessary for the purposes of collecting, validating, processing, and disseminating the information; (3) administration; and (4) transmitting, or otherwise disclosing the information.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's burden estimate of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

David P. Boergers,

Secretary.

[FR Doc. 01–24296 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC00–574–001, FERC–574]

Information Collection Submitted for Review and Request for Comments

September 24 , 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of submission for review of the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under the provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission did not receive any comments in response to an earlier **Federal Register** notice of April 19, 2001 (66 FR 20143) and has made a notation in this submission.

DATES: Comments regarding this collection are best assured of having their full effect if received on or before October 24, 2001.

ADDRESSES: Address comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer, 725 17th Street, NW., Washington DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, CI–1, 888 First Street NE., Washington, DC 20426. Mr. Miller may be reached by telephone at (202)208–1415, by fax at (202)208–2425, and by e-mail at *mike.miller@ferc.fed.us.*

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–574 ''Gas Pipeline Certificates: Hinshaw Exemption''

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0116. The Commission is requesting a three-year extension of the current expiration date (November 30, 2001) with no changes to the existing collections of data. This is a mandatory information collection requirement.

4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing provisions of Section 1(c), 4, 7, 10(a) and 16 of the Natural Gas Act (NGA). Natural gas pipeline companies file applications with the Commission furnishing information in order for a determination to be made as to whether the applicant qualifies for an exemption from the provisions of the Natural Gas Act (Section 1(c)).

The exemption applies to the companies engaged in the transportation or sale for resale of natural gas in interstate commerce if: (a) It receives gas at or within the boundaries of the state from another person; (b) such gas is transported, sold, consumed within such state; and (c) the rates, service and facilities of such company are subject to regulation by a State Commission. The data required to be filed by pipeline companies is specified by 18 Code of Federal Regulations (CFR) Part 152.

5. *Respondent Description:* The respondent universe currently comprises on average approximately one natural gas pipeline company.

6. *Estimated Burden:* 245 total burden hours, 1 respondent, 1 response annually, 245 hours per response.

Authority: Sections 1(c) 4, 7, 10(a) and 16 of the NGA(15 U.S.C. 717–717w).

David P. Boergers,

Secretary.

[FR Doc. 01–24297 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–562–001]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 25, 2001.

Take notice that on September 19, 2001, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to become effective September 1, 2001:

Substitute Forty-eighth Revised Sheet No. 8
Substitute Forty-eighth Revised Sheet No. 9

On August 31, 2001 ANR Pipeline Company (ANR) filed in Docket No. RP01–562 revised tariff sheets to implement recovery of capacity and supply costs (Dakota Costs) associated with ANR's obligations to Dakota Gasification Company (Dakota), and which have not been recovered through the bidding procedures established in GT&C, Section 28.1(c)(4), of ANR's Tariff. ANR states that the above-referenced tariff sheets are being filed to correct a clerical error made in posting the ITS commodity rate reflected on Forty-eighth Revised Sheet No. 9 and the FTS–2 overrun rate reflected on Forty-eighth Revised Sheet No. 8, for five of the rate routes presented on each matrix.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket# and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–24311 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–509–001]

Florida Gas Transmission Company; Notice of Correction Filing of Annual Charge Adjustment

September 25, 2001

Take notice that on September 20, 2001, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, effective October 1, 2001:

First Revised Sheet No. 8A.03

FGT states that on August 17, 2001 FGT filed revised tariff sheets in Docket No. RP01–509–000 (August 17 Filing) to reflect a reduction in the ACA charge from 0.22¢ to 0.21¢ per MMBtu based on the Commission's Annual Charge Billing for Fiscal Year 2001. FGT inadvertently failed to include Rate Sheet No. 8A.03 as part of the August 17 Filing. FGT states that the instant filing is made to reflect the reduction in the ACA charge on Sheet No. 8A.03.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before October 2, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–24310 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–369–001]

Mississippi River Transmission Corporation; Notice of Filing of Request for Extension of Time

September 25, 2001.

Take notice that on September 20, 2001, Mississippi River Transmission Corporation (MRT) tendered for filing a request for an extension of time until no later than April 1, 2002 to implement the Internet-related GISB Standards in Version 1.4. MRT states that a copy of this filing is being mailed to each party to this proceeding as reflected on the official service list compiled by the Secretary of the Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before October 2, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–24309 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–399–005]

National Fuel Gas Supply Corporation; Notice of Correction Filing

September 25, 2001.

Take notice that on September 18, 2001 National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff,

Fourth Revised Volume No. 1, Sub. First Revised Sheet No. 45.

National Fuel states that the purpose of the instant filing is to make a correct to Sheet No. 45 included in the August 31, 2001 compliance filing, which contained redundant language that should have been deleted. National Fuel is submitting Substitute First Revised Sheet No. 45 to make this correction, which conforms the EFT Rate Schedule language regarding overrun transportation to the language of the FT Rate Schedule.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–24307 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–368–001]

Reliant Energy Gas Transmission Company; Notice of Filing of Request for Extension of Time

September 25, 2001.

Take notice that on September 20, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing a request for an extension of time until no later than April 1, 2002 to implement the Internet-related GISB Standards in Version 1.4.

REGT states that a copy of this filing is being mailed to each party to this proceeding as reflected on the official service list compiled by the Secretary of the Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before October 2, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–24308 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–609–000]

Viking Gas Transmission Company; Notice of Tariff Filing and Annual Charge Adjustment

September 25, 2001.

Take notice that on September 20, 2001, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the following tariff sheets to become effective October 1, 2001:

Twenty-Sixth Revised Sheet No. 6
Nineteenth Revised Sheet No. 6A
Tenth Revised Sheet No. 6B

Viking states that the purpose of this filing is to decrease Viking's Annual Charge Adjustment (ACA) from $0.0022 per dekatherm to $0.0021 per dekatherm as permitted by Sections 154.204 and 154.402 of the Commission's Rules and Regulations, 18 C.F.R. § 154.204, 154.402 (2001). Viking's authority to make this filing is set forth in Article XIX of the General Terms and Conditions of Viking's FERC Gas Tariff, First Revised Volume No. 1.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–24312 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2534–001, et al.]

New England Power Pool., et al.; Electric Rate and Corporate Regulation Filings

September 24, 2001.

Take notice that the following filings have been made with the Commission:

1. New England Power Pool

[Docket No. ER01–2534–001]

Take notice that on September 20, 2001, the New England Power Pool (NEPOOL) Participants Committee amended its filing with the Federal Energy Regulatory Commission (Commission) on the Market Rule dated July 6, 2001, which had sought to implement changes to the treatment of Installed Capability (ICAP) transactions in order to facilitate and standardize the trading of ICAP and firm energy products across control area boundaries.

The amendment makes no substantive change to NEPOOL's original filing and requests a November 1, 2001 effective date for the Market Rule changes contained therein.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Company

[Docket No. ER01–2609–001]

Take notice that on September 20, 2001 as directed by letter dated September 13, 2001, from the Federal Energy Regulatory Commission, Southern California Edison Company (SCE) filed supplemental information regarding its filing in Docket No. ER01–2609–000.

Copies of this filing were served upon the Public Utilities Commission of the State of California, California Independent System operator and Wildflower.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Colton Power L.P.

[Docket No. ER01–2644–001]

Take notice that on September 19, 2001, Colton Power L.P. (Applicant) tendered for filing with the Federal Energy Regulatory Commission (Commission), an amended market-based rate schedule under Section 205 of the Federal Power Act, in order to comply with the Commission's Letter Order issued on September 18, 2001 in Docket No. ER01–2644–000.

Comment date: October 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. American Electric Power Service Corporation

[Docket No. ER01–3033–001]

Take notice that on September 21, 2001, the American Electric Power Service Corporation (AEPSC), amended its filing with the Federal Energy Regulatory Commission (Commission), in Docket No. ER01–3033–000 to correct Inconsistencies with Order No. 614 issued in Docket No. RM99–12–000. Tendered for filing are executed Firm and Non-Firm Point-to-Point Transmission (PTP) Service Agreements for Split Rock Energy LLC, a Firm PTP Service Agreement for PSEG Energy Resources & Trade LLC, and a Revised Firm PTP Service Agreement for Exelon Generation—Power Team for a long-term PTP reservation. 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 Revised NTS Agreements 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 Revised NTS Service Agreement for WVPA to be made effective on and after May 16, 2001, and the Revised NTS Service Agreement for AEPM to be made effective for service on and after August 1, 2001. An effective date of September 1, 2001 is requested for all other agreements filed herewith.

Pursuant to a request by El Paso Merchant Energy, L.P., formerly Engage Energy US, L.P., AEPSC also filed a Notice of Cancellation of firm and non-firm service agreements executed April 1, 1998, 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 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Duke Energy Oakland, LLC

[Docket No. ER01–3034–001]

Take notice that on September 20, 2001, Duke Energy Oakland, L.L.C. (DEO) tendered for filing with the Federal Energy Regulatory Commission (Commission), two sets of substitute sheets to correct omissions from their September 10, 2001 filing in this proceeding. Specifically these corrections are to Table B–6 of Schedule B of its Reliability Must Run Service Agreement (RMR Agreement) with the California Independent System Operator (CAISO). DEO requests effective dates of October 1, 2000, and January 1, 2001, respectively, for its two revisions.

Copies of the filing have been served upon the CAISO, PG&E and the California Public Utilities Commission.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER01–3077–000]

On September 19, 2001, Florida Power & Light Company (FPL) filed with the Federal Energy Regulatory Commission (Commission), a Service Agreement for Entergy-Koch Trading, LP for service pursuant to FPL's Market Based Rates Tariff. FPL requests that the Service Agreement be made effective on August 20, 2001.

Comment date: October 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. American Electric Power Service Corporation

[Docket No. ER01–3078–000]

Take notice that on September 20, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement with Cleveland Public Power, City of Cleveland, Department of Public Utilities (CPP) for a transaction exceeding one year in length by the AEP Companies under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5, Effective October 10, 1997 in Docket ER 97–4143–00 (Wholesale Tariff of the AEP Operating Companies) and FERC Electric Tariff Original Volume No. 8, Effective January 8, 1998 in Docket ER 98–542–000 (Market-Based Rate Power Sales Tariff of the CSW Operating Companies). AEPSC respectfully requests waiver of notice to permit this Service Agreement to be made effective on or prior to September 1, 2001.

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 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER01–3079–000]

Take notice that on September 19 , 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission), a Second Revised Network Integration Transmission Service (including a Network Operating Agreement) entered into with Dynegy Power Marketing, Incorporated (DPM) pursuant to Illinois Power's Open Access Transmission

Tariff. Illinois Power requests an effective date of August 29, 2001 for the Agreement and accordingly seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to DPM.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Public Service Company of New Mexico

[Docket No. ER01–3080–000]

Take notice on September 20, 2001, Public Service Company of New Mexico (PNM) submitted for filing with the Federal Energy Regulatory Commission (Commission), two executed service agreements with Farmington Electric Utility System, under the terms of PNM's Open Access Transmission Tariff. One agreement is for non-firm point-to-point transmission service and one agreement is for short-term firm point-to-point transmission service. PNM requests the date of the agreement, August 27, 2001, as the effective date for the agreements. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Farmington Electric Utility System, and to the New Mexico Public Regulation Commission.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Company of New Mexico

[Docket No. ER01–3081–000]

Take notice that on September 20, 2001, Public Service Company of New Mexico (PNM) submitted for filing with the Federal Energy Regulatory Commission (Commission), two executed service agreements with Conoco Gas & Power Marketing, under the terms of PNM's Open Access Transmission Tariff. One agreement is for non-firm point-to-point transmission service and one agreement is for short-term firm point-to-point transmission service. PNM requests the date of the agreement, August 24, 2001, as the effective date for the agreements. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Conoco Gas & Power Marketing, and to the New Mexico Public Regulation Commission.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. American Transmission Company LLC

[Docket No. ER01–3082–000]

Take notice that on September 19, 2001, American Transmission Company LLC (ATCLLC) tendered for filing with the Federal Energy Regulatory Commission (Commission), Firm and Non-Firm Point-to-Point Service Agreements for Consumers Energy Company d/b/a Consumers Energy Traders. ATCLLC requests an effective date of September 13, 2001.

Comment date: October 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Western System Coordinating Council

[Docket No. ER01–3085–000]

Take notice that on September 20, 2001, the Western Systems Coordinating Council (WSCC) tendered for filing with the Federal Energy Regulatory Commission (Commission), certain revisions to its Unscheduled Flow Mitigation Plan (Plan) intended to increase the numbers of available hours of coordinated operations under the Plan, and to update other provisions of the Plan. The WSCC requests an effective date of October 1, 2001 for these changes.

Copies of this filing were served on all members of the WSCC and all affected state commissions.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. ISO New England Inc.

[Docket No. ER01–3086–000]

Take notice that on September 20, 2001, ISO New England Inc. (the ISO) submitted for filing with the Federal Energy Regulatory Commission (Commission), amendments under Section 205 of the Federal Power Act to the Special Interim Market Rule originally filed with the Commission on November 1, 2000.

Copies of said filing have been served upon the Secretary of the NPC, the Participants in the New England Power Pool, and upon the New England State Governors and Regulatory Commissions.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. South Carolina Electric & Gas Company

[Docket No. ER01–3087–000]

Take notice that on September 19, 2001, South Carolina Electric & Gas Company (SCE&G) submitted to the Federal Energy Regulatory Commission (Commission), a service agreement establishing North Carolina Electric Membership Corporation as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of August 8, 2001 to coincide with the first day service was provided under the agreement; alternatively, SCE&G requests an effective date no later than September 20, 2001. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon North Carolina Electric Membership Corporation and the South Carolina Public Service Commission.

Comment date: October 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Central Hudson Gas & Electric Corporation

[Docket No. ER01–3088–000]

Take notice that on September 19, 2001, Central Hudson Gas and Electric Corporation (Central Hudson), tendered for filing with the Federal Energy Regulatory Commission (Commission), revisions to its Rate Schedule FERC No. 201 which sets forth the terms and charges for transmission facilities provided by the Company to Consolidated Edison Company of New York, Inc. (Con Edison) and Niagara Mohawk Power Corporation (Niagara Mohawk) for the transmission of output from the Roseton Generating Station.

The aforementioned revisions address the development of actual annual costs for 2000 which amounted to $176,930 to Con Edison and $360,390 to Niagara Mohawk and are the basis for charges for the period January 1, 2001 through, and including, January 30, 2001.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 2001 as agreed to by the parties.

Central Hudson states that a copy of its filing was served on Con Edison, Niagara Mohawk and the State of New York Public Service Commission.

Comment date: October 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. PacifiCorp

[Docket No. ER01–3089–000]

Take notice that on September 20, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC), in accordance with 18 CFR 35 of the Commission's Rules and Regulations, PacifiCorp's FERC Electric Tariff, Third Revised Volume No. 11 (Tariff). The Tariff is being revised only to change the pagination.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. American Transmission Systems, Inc.

[Docket No. ER01–3090–000]

Take notice that on September 21, 2001, American Transmission Systems, Inc., filed with a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for Calpine Energy Services, L.P., the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000. The proposed effective date under the Service Agreement is September 20, 2001 for the above mentioned Service Agreement in this filing.

Comment date: October 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. American Transmission Systems, Inc.

[Docket No. ER01–3091–000]

Take notice that on September 21, 2001, American Transmission Systems, Inc. filed a Service Agreement to provide Firm Point-to-Point Transmission Service for Calpine Energy Services, L.P., the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000. The proposed effective date under the Service Agreement is September 20, 2001 for the above mentioned Service Agreement in this filing.

Comment date: October 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Wisvest-Connecticut, LLC and NRG Connecticut Power Assets LLC, NRG Connecticut Power Assets LLC, NRG Connecticut Power Assets LLC

[Docket Nos. EC01–70–000 and ER01–1259–000 (Consolidated), EG01–121–000, EG01–185–000 (Not Consolidated)]

Take notice that on September 21, 2001, Wisvest-Connecticut, LLC and NRG Connecticut Power Assets LLC (NRG), notified the Commission of the withdrawal of their application for authority under Section 203 of the Federal Power Act to dispose of jurisdictional facilities, filed with the Commission in Docket No. EC01–70–000 on February 16, 2001, as subsequently amended.

In addition, NRG notified the Commission of the withdrawal of its application for market-based rate authority under Section 205 of the Federal Power Act, which was filed with the Commission on February 20, 2001 in Docket No. ER01–1259–000, as subsequently amended. Furthermore, in light of the above, pursuant to Section 365.8 of the Commission's regulations, NRG also notified the Commission of this material change in facts regarding NRG's application for exempt wholesale generator (''EWG'') filed with the Commission on February 8, 2001 in Docket No. EG01–121–000, as subsequently amended, redocketed as Docket No. EG01–185–000, and ultimately approved by operation of law.

Comment date: October 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Dominion Dresden Services Company, Inc.

[Docket No. EG01–331–000]

Take notice that on September 20, 2001, Dominion Dresden Services Company, Inc. (DDSA) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

DDSA, a Delaware corporation, is a wholly owned subsidiary of Dominion Energy, Inc. (DEI) also a Virginia corporation. DEI is a wholly owned subsidiary of Dominion Resources, Inc., a Virginia corporation. DDSA will be directly and exclusively engaged in the business of operating and selling electricity at wholesale from an approximately 668 MW (nominal) generating facility currently under construction near Dresden, Ohio.

Comment date: October 15, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

21. Dominion Armstrong Services Company, Inc.

[Docket No. EG01–332–000]

Take notice that on September 20, 2001, Dominion Armstrong Services Company, Inc. (''DASA'') filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

DASA, a Delaware corporation, is a wholly owned subsidiary of Dominion Energy, Inc. (DEI) also a Virginia corporation. DEI is a wholly owned subsidiary of Dominion Resources, Inc., a Virginia corporation. DASA will be directly and exclusively engaged in the business of operating and selling electricity at wholesale from an approximately 660 MW (nominal) generating facility currently under construction in Armstrong County, Pennsylvania.

Comment date: October 15, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

22. Dominion Troy Services Company, Inc.

[Docket No. EG01–333–000]

Take notice that on September 20, 2001, Dominion Troy Services Company, Inc. (DTSA) tendered for filing with the Federal Energy Regulatory Commission, (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Comment date: October 15, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

23. Dominion Pleasants Services Company, Inc.

[Docket No. EG01–334–000]

Take notice that on September 24, 2001, Dominion Pleasants Services Company Inc. (DPSA) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

DPSA, a Delaware corporation, is a wholly owned subsidiary of Dominion Energy, Inc. (DEI) also a Virginia corporation. DEI is a wholly owned subsidiary of Dominion Resources, Inc., a Virginia corporation. DPSA will be directly and exclusively engaged in the business of operating and selling electricity at wholesale from an approximately 335 MW generating facility currently under construction in Pleasants County, West Virginia.

Comment date: October 15, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

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. 01–24305 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application To Convey Easement and Soliciting Comments, Motions To Intervene, and Protests

September 24, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Authorization to convey an easement across certain Coosa River Project, H. Neely Henry Development lands and waters to the City of Gadsden, Alabama for the development of a municipal golf course.

b. *Project No.* 2146–091.

c. *Date Filed:* August 15, 2001.

d. *Licensee:* Alabama Power Company.

e. *Name of Project:* Coosa River Hydroelectric Project.

f. *Location:* On the Coosa River, in Calhoun, St. Clair and Etowah Counties, Alabama. This project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Licensee Contact:* Mr. Jim Crew, Alabama Power Company, P.O. Box 2641, Birmingham, Alabama 35291. (205) 257–4265.

i. *FERC Contact:* Any questions on this notice should be addressed to Jean Potvin, jean.potvin@ferc.fed.us, or (202) 219–0022.

j. *Deadline for filing comments and or motions:* October 25, 2001.

All documents (original and eight copies) should be filed with Mr. David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/rfi/doorbell.htm.* Please reference the following number, P–2146–091, on any comments or motions filed.

k. *Description of Proposal:* The licensee proposes to convey an easement for (1) a berm to hold water in a small lake at summer pool and an adjoining concrete rubble retaining wall, (2) certain excavation and fill activities, (3) a small bridge for a golf cart crossing, (4) associated drainage structures and (5) a permanent water quality monitoring station near the outfall of the small lake into the river channel.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling 202–208–1371. The application may be viewed on-line at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 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.

n. 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.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. 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. 01–24298 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Settlement Agreement and Soliciting Comments

September 24, 2001.

Take notice that the following Settlement Agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* 2496–051.

c. *Date filed:* September 13, 2001.

d. *Applicant:* Eugene Water & Electric Board.

e. *Name of Project:* Leaburg-Walterville Hydroelectric Project.

f. *Location:* On the McKenzie River, in Lane County, Oregon. The project does not occupy any federal land.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Gale Banry, Relicensing Project Manager, Eugene Water & Electric Board, 500 East 4th Avenue, P.O. Box 10148, Eugene, OR 97440, (541) 484–2411.

i. *FERC Contact:* John Smith, 202–219–2460, john.smith@ferc.fed.us.

j. *Deadline for filing comments:* October 15, 2001. Reply comments due October 30, 2001.

All documents (original and eight copies) should be filed with: David P.

Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments 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 website (http://www.ferc.gov) under the ''e-Filing'' link.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Filing:* Eugene Water & Electric Board filed the Settlement Agreement on behalf of itself and the U.S. Department of Commerce's National Marine Fisheries Service (NMFS) and the U.S. Department of the Interior's Fish and Wildlife Service (FWS). The purpose of the Settlement Agreement is to resolve among the signatories issues raised in NMFS's and FWS's pending Request for Rehearing and Reconsideration and EWEB's pending Petition for Rehearing of the Commission's April 27, 2000, Order on Remand and Lifting Stays for the Leaburg-Walterville Hydroelectric Project (FERC Project No. 2496). The signatories request that the Commission accept the Offer of Settlement; approve the Agreement and the construction schedule proposed pursuant to license article 403 (Attachment 2 to the Offer of Settlement) without material modification; substitute revised and updated license articles 410, 416, 417, 418, 419, 420, and 421 (Attachment 3 to the Offer of Settlement) for those contained in the license as issued on March 24, 1997; and delete Appendices A and B from the March 24, 1997 license order. Comments and reply comments on the Settlement Agreement are due on the dates listed above.

l. A copy of the Settlement Agreement is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link-select ''Docket #'' and follow instructions (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

David P. Boergers,

Secretary.

[FR Doc. 01–24299 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Rescheduled Sixth Interstate Natural Gas Facility-Planning Seminar Presentation of Staff's Findings

September 24, 2001.

The Office of Energy Projects has rescheduled its sixth in a series of public meetings for the purpose of exploring and enhancing strategies for constructive public participation in the earliest stages of natural gas facility planning. This seminar will be held in Washington, DC at the Federal Energy Regulatory Commission on Friday, October 26, 2001.[1] The seminar will focus on the staff's report entitled: ''Ideas For Better Stakeholder Involvement In The Interstate Natural Gas Pipeline Planning Pre-Filing Process'' and provide an opportunity for an open discussion of the report.

We are inviting all attendees from our previous seminars and any other interested persons; natural gas companies; Federal, state and local agencies; landowners and non-governmental organizations with an interest in searching for improved ways to do business to join us. We will specifically discuss the findings in staff's report and the overall facility planning process, not the merits of any pending or planned pipeline projects.

The staff report can be downloaded from the FERC web-site at www.ferc.gov or requested by e-mail at: gas outreach-feedback@ferc.fed.us.

At the seminar, the staff of the Commission's Office of Energy Projects will give a presentation on the findings in the staff report. These were compiled from our first five seminars in Albany, New York; Chicago, Illinois; Tampa, Florida; Seattle, Washington; and Portsmouth, New Hampshire. We will discuss each set of action options stakeholders can use as tools to improve their involvement in the pre-filing planning process. The open discussion time will focus on ideas people have for implementing the options and also experiences people have had with them.

The meeting will be held in the FERC Headquarters at 888 1st St., NE., Washington, DC. The meeting is scheduled to start at 9:30 a.m. and finish at 12 noon.

If you plan to attend, please email our team by October 22, 2001 at gasoutreach@ferc.fed.us. Or, you can respond via facsimile to Pennie Lewis-Partee at 202–208–0353. Please include in the response the names, addresses, and telephone numbers of all attendees from your organization. We will send an acknowledgment of your request.

If you have any questions, you may contact any of the staff listed below:

Richard Hoffmann, 202/208–0066
Lauren O'Donnell, 202/208–0325
Jeff Shenot, 202/219–2178
Howard Wheeler, 202/208–2299

J. Mark Robinson,

Director, Office of Energy Projects.

[FR Doc. 01–24306 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

[1] Please note that this meeting was originally scheduled for September 20, 2001, at the FERC Headquarters in Washington, DC, but was postponed.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2634]

Great Northern Paper, Inc; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

September 24, 2001.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission is consulting with the Maine State Historic Preservation Officer (hereinafter, SHPO) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR part 800, implementing Section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. Section 470f), to prepare a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Storage Project (FERC No. P–2634).

The programmatic agreement, when executed by the Commission, the SHPO, and the Council, would satisfy the Commission's Section 106

[1] 18 CFR 385.2010.

responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.14). The Commission's responsibilities pursuant to Section 106 for the above project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

Great Northern Paper, Inc. as prospective licensee for Project No. P–2634, and the Passamaquoddy Indian Tribe, Penobscot Indian Nation, and U.S. Bureau of Indian Affairs have interest in this proceeding are invited to participate in consultations to develop the programmatic agreement and to sign as a concurring party to the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for Project No. P–2634 as follows:

Dr. Laura Henley Dean, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW., Washington, DC 20004

Earle G. Shettleworth, Jr., State Historic Preservation Officer, Maine Historic Preservation Commission, 55 Capitol Street, 65 State House Station, Augusta, Maine 04333

Brian R. Stetson, Manager of Environmental Affairs, Great Northern Paper, Inc., Engineering and Research Building, 1 Katahdin Ave., Millinocket, Maine 04462–1373

Richard H. Hamilton, Chief, Penobscot Indian Nation, 6 River Road; Indian Island, Old Town, Maine 04468

Gregory W. Sample, Drummond Woodsum & MacMahon, 245 Commercial Street, P.O. Box 9781, Portland, Maine 04104–5081

Jim Harriman, U.S. Bureau of Indian Affairs, Eastern Area Office, M.S. 260–VASQ, 3701 Fairfax Drive, Arlington, Virginia 22203–1700

Any person on the official service list for the above-captioned proceedings may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date.

An original and 8 copies of any such motion must be filed with the Secretary of the Commission (888 First Street, NE., Washington, DC 20426) and must be served on each person whose name appears on the official service list. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on the motion.

David P. Boergers,

Secretary.

[FR Doc. 01–24300 Filed 9–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Montana/Dakotas Regional Transmission Study Scope

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of public workshop and request for comments.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy, will hold a public workshop to solicit input on a planning study of transmission expansion options and projected costs in Western's Upper Great Plains Region. Western is soliciting suggestions from interested parties for the sites in Montana and North Dakota that should be studied as potential locations for new generation and possible transmission alternatives needed to deliver these resources to the eastern and western electric grids. This study is being conducted in accordance with the Supplemental Appropriations Act, 2001, (Pub. L. 107–20, Chapter 4). Western will accept oral and written comments on the study scope at the workshop and will accept written comments until November 2, 2001. A final scope of study will be published November 21, 2001, and posted on Western's Website at *www.wapa.gov.*

DATES: The workshop will be held October 19, 2001, from 9:30 a.m. to 12 p.m. (noon) and 1 p.m. to 4:30 p.m. MDT. Lunch will not be provided. All comments must be received by November 2, 2001, to assure consideration.

ADDRESSES: The workshop will be held at the Sheraton Hotel, 27 North 27th Street, Billings, Montana. All comments should be sent to: Ms. Robin Johnson, Project Manager, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266. Comments may also be faxed to (406) 247–7408 or e-mailed to *UGPRStudy@wapa.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Robin Johnson, Project Manager, Upper Great Plains Customer Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, telephone: (406) 247–7426, e-mail: *UGPRStudy@wapa.gov.*

SUPPLEMENTARY INFORMATION: The Upper Great Plains Region owns, operates, and maintains 7,700 miles of transmission and 99 substations in Montana, North Dakota, South Dakota, Minnesota, Iowa, and Nebraska. This transmission grid was designed and constructed to deliver Federal hydropower to more than 300 preference customers in the Region, but is constrained from accepting new generation resources presently being planned in Montana and North Dakota. This study will identify potential new generation sites and evaluate enhancements to the existing transmission system along with new transmission projects needed to deliver new energy resources to customers in both the east and west grids.

The workshop will consist of a brief presentation on transmission constraints in the Western transmission system, possible remedies, and presently planned system improvements. Open discussion of new projects will follow. Maps of the existing transmission system will be available to assist workshop participants in locating proposed projects. Western's staff will review the proposed projects and develop a final scope of study by November 21, 2001. The final study scope will be posted on Western's Website at *www.wapa.gov.* Various types of generation and both alternating current and direct current technology will be considered. The study will require assumptions as to future generation locations for creation of a benchmark model. Power flow and stability analyses will be conducted on the selected scenarios as limited by study schedule and budget. A final report of study results will be published in June 2002 and posted on Western's Website at *www.wapa.gov.* Electronic copies will be available by request.

Dated: September 14, 2001.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 01–24313 Filed 9–27–01; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 7069–8]

Agency Information Collection Activities; OMB Responses

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance

requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). 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 number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at 260–2740, or email at *Farmer.sandy@epa.gov,* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1849.01; Landfill Methane Outreach Program; was approved 06/05/2001; OMB No. 2060–0446; expires 10/31/2003.

EPA ICR No.; 1643.04; Application Requirements for the Approval and Delegation of Federal Air Toxics Programs, to State, Territorial, Local, and Tribal Agencies; in 40 CFR Part 63, subpart E; was approved 06/05/2001; OMB No. 2060–0264; expires 06/30/2004.

EPA ICA No. 0222.05; Investigation into Possible Noncompliance of Motor Vehicles with Federal Emission Standards; was approved 06/05/2001; OMB No. 2060–0086; expires 06/30/2002.

EPA ICR No. 1687.05; NESHAP Aerospace Manufacturing and Rework Operations; in 40 CFR part 63, subpart GG; was approved 05/31/2001; OMB No. 2060–0314; expires 05/31/2004.

EPA ICR No. 1080.10; National Emission Standards for Hazardous Air Pollutants, Benzene Emission from Benzene Storage Vessells and Coke by-Product recovery plants in 40 CFR, part 61, subpart L & Y was approved 08/01/2001; OMB No. 2060–0185; expires 08/31/2004.

EPA ICR No. 1135.07; New Source Performance Standards (NSPS) for Magnetic Tape Coating Facilities; 40 CFR part 60, subpart SSS; was approved 02/15/01; OMB No. 2060–0171; expires 02/29/2004.

EPA ICR No. 0574.11; Pre-Manufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for Chemical Substances; in 40 CFR Part 720, 721, 723 and 725; was approved 07/23/200; OMB No. 2070– 0012; expires 07/21/2004.

EPA ICR No. 1432.20; Recordkeeping and Periodic Reporting of the Production Import, Recycling, Destruction, Transshipment and Feedstock Use of Ozone-Depleting Substances; in 40 CFR Part 82.13; was approved 07/19/2001; OMB No. 2060–0170; expires 09/30/2001.

EPA ICR No. 1710.03; Residential Lead-Based Paint Hazard Disclosure Requirements; in 40 CFR Part 745, subpart F; was approved 07/03/2001; OMB No. 2070–0151; expires 07/31/2004.

EPA ICR No. 1246.08; Rule Related Replacement ICR to the Existing ICR entitled ''Reporting and Recordkeeping for Asbestos Abatement Worker Protection''; in 40 CFR part 763, subpart G; was approved 07/23/01; OMB No. 2070–0072; expires 07/31/2004

EPA ICR No. 1693.02; Plant-Incorporated Protectants; CBI Substantiation and Adverse Effects Reporting; was approved 07/23/2001; OMB No. 2070–0142; expires 07/31/2004.

EPA ICR No. 1593.05; Standards of Performance for Air Emission Standards for Tanks, Surface Impoundments and Containers, in 40 CFR part 264, subpart CC, and 40 CFR part 265; was approved 07/11/2001; OMB No. 2060–0318; expires on 07/31/2004

Short Term Extensions

EPA ICR No. 1012.06; Polychlorinated Biphenyls (PCBs) Disposal Permitting Regulation; OMB No. 2070–0011 on 06/29/2001 OMB extended the expiration date through 07/31/2001.

EPA ICR No. 1011.40; Partial Updating of TSCA Inventory Data Base; Production and Site Reports; OMB No. 2070–0070; on 06/30/2001 OMB extends the expiration date through 09/30/2001.

EPA ICR No. 0867.07; Polychlorinated Biphenyls (PCBs): Manufacturing, Processing, and Distribution in Commerce Exemptions; OMB No. 2070–0021; on 06/29/2001 OMB extended the expiration date through 07/31/2001.

EPA ICR No. 1001.06; Polychlorinated Biphenyls (PCBs); Exclusions, Exemptions, and Use Authorizations; OMB No. 2070–0008; on 06/29/01 OMB extended the expiration date through 07/31/2001.

EPA ICR No. 1823.01; Reporting and Recordkeeping Requirements under the Perfluorocompound (PFC) Emission Reduction Partnership for the Semiconductor Industry; OMB NO. 2060–0382; on 06/29/01 OMB extended the expiration date through 09/30/2001.

Comment Filed

EPA ICR No. 1957.01; Reporting and Recordkeeping Requirements for Metal Coil Surface Coating Plants; on 06/07/2001; OMB filed comment and continue.

EPA ICR No. 1938.01; National Emission Standards for Hazardous Air Pollutants from Municipal Solid Waste Landfills; in 40 CFR, part 60, subparts CC and WWW; on 06/07/2001; OMB filed comment and continue.

EPA ICR No. 1951.01; NESHAP for Source Categories; Paper and Other Web Coating Operations; in 40 CFR, Part 63, subpart JJJJ on 06/14/2001; OMB filed comment and continue.

EPA ICR No. 1886.01; Recordkeeping and Reporting Requirements for National Emission Standards for Hazardous Air Pollutants (NESHAP for Manufacturing of Nutritional Yeast Source Category; 40 CFR, part 63, subpart CCCC; on 08/01/2001; OMB filed comment.

Withdrawn

EPA ICR No. 1969.01; National Emission Standards of Hazardous Air Pollutants (NESHAP) from Miscellaneous Organic Chemical Manufacturing; was withdrawn from OMB on 07/13/2001.

Dated: September 12, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–24376 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7069–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Emission Standard for Hazardous Air Pollutants for Total HAP Emissions From Pulp and Paper Production, Pulp and Paper Source Category—Process Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP for Total HAP Emissions from the Pulp and Paper Production Source Category—Process Operations, OMB Control Number 2060–0387, expiration date September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where

appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 29, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1657.04 and OMB Control No. 2060–0387, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *auby.susan@epamail.epa.gov* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1657.04. For technical questions about the ICR contact Seth Heminway by phone at (202) 564–7017 or by E-mail at: *heminway.seth@epa.gov.*

SUPPLEMENTARY INFORMATION:

Title: NESHAP—MACT Subpart S, Pulp and Paper Production Source Category—Process Operations (OMB control number 2060–0387; EPA ICR No. 1657.04) expiration date September 30, 2001. This review is for an extension of the currently approved information collection.

Abstract: This NESHAP covering emissions from the pulping process relies on the capture and destruction of hazardous air pollutants (HAP) by either burning them in a boiler or kiln or by introducing them into the wastewater treatment system. HAP's captured from bleaching systems are controlled with a chlorine gas scrubber. The record keeping, notification and reporting requirements of the standard are critically important as they allow the Agency to determine to which facilities the standards apply and they enable the Agency to monitor initial and ongoing compliance with the standards. As much as possible, in order to reduce the burden, the compliance monitoring and record keeping requirements are designed to cover parameters that are already being monitored as part of the manufacturing process.

Pulp mill owners or operators (respondents) are required to submit initial notifications, maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Respondents are required to monitor and keep records of specific operating parameters for each control device and to perform and document periodic inspections of the closed vent and wastewater conveyance systems. All respondents must submit semi-annual summary reports of monitored parameters, and they must submit an additional monitoring report during each quarter in which monitored parameters were outside the ranges established in the standard or during initial performance tests. A source identified to be out of compliance with the NESHAP will be required to submit quarterly reports until the Administrator is satisfied that the source has corrected its compliance problem. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to MACT standards. Since none of the required reports to the Agency have been deemed confidential business information they will not be treated as such.

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 EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 2, 2001 (66 FR 8591); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 100 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes 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; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Pulp mill owners or operators.

Estimated Number of Respondents: 162.

Frequency of Response: Semi-annual and quarterly.

Estimated Total Annual Hour Burden: 50,232.

Estimated Total Annualized Capital, O&M Cost Burden: $370,500.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1657.04 and OMB Control No. 2060–0387 in any correspondence.

Dated: September 12, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–24377 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7069–2]

Agency Information Collection Activities; Submission to OMB; Comment Request; EPA ICR No. 0596.07; Application and Summary Report for FIFRA Section 18 Emergency Exemption for Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Application and Summary Report for Emergency Exemption for Pesticides (EPA ICR No.0596.07; OMB No. 2070–0032). The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs. The **Federal Register** document, required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on December 20, 2000 (65 FR 79823). EPA received no comments on this ICR during the 60-day comment period.

DATES: Additional comments may be submitted on or before October 29, 2001.

ADDRESSES: Send your comments, referencing the proper ICR number, to: Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave., NW., Washington, DC 20460; and send a copy of your comments to: Office of Information and Regulatory Affairs, Office of

Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone on 202–260–2740, by e-mail: farmer.sandy@epa.gov or access the ICR at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 0596.07; OMB Control No. 2070–0032.

SUPPLEMENTARY INFORMATION:

ICR Title: Application and Summary Report for Emergency Exemption for Pesticides

(EPA ICR 0596.07, OMB Control No. 2070–0032)

ICR Status

This is a request for extension of an existing approved collection that is currently scheduled to expire on September 30, 2001. EPA is asking OMB to approve this ICR for three years. Under 5 CFR 1320.10(e)(2), the Agency may continue to conduct or sponsor the collection of information while the submission is pending at OMB.

Abstract

This information collection activity is designed to provide EPA with necessary data to evaluate an application for permission to temporarily ship and use a pesticide product for an unregistered use to mitigate an emergency situation, and to evaluate the effectiveness of that product in allaying the emergency. The state lead agency, territorial government, or federal agency evaluates the need to submit an emergency exemption application, and submit these applications to EPA for unregistered uses of pesticides they believe are warranted. The uses are requested for a limited period of time to address the emergency situation only. Applications for Section 18 emergency exemptions are submitted at the discretion of a state, U.S. territory, or federal agency. Should one of these entities apply for the emergency, then the information and data described in the ICR must be submitted to EPA.

Burden Statement

The annual respondent burden for collection of information associated with the rule is estimated to average 99 hours per application. According to the Paperwork Reduction Act (PRA), ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes 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; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. The Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

The ICR provides a detailed explanation of the information collection activity and the corresponding burden estimate, which is only briefly summarized here.

Respondents/affected entities: States, US territories, and Federal Agencies that regulate pesticides or pesticide products.

Estimated total number of potential respondents: 60.

Frequency of response: As necessary, when a pest emergency is identified by the respondents.

Estimated total/average number of responses for each respondent: 10 annually.

Estimated total annual burden hours: 59,400.

Estimated total annual non-labor costs: $0.

Changes in the ICR Since the Last Approval: The total annual burden associated with this ICR has increased 15,934 hours, from 43,466 hours in the previous ICR to 59,400 hours for this ICR. This change reflects a substantial increase in the number of FIFRA Section 18 emergency exemption applications submitted to the Agency and is described in detail in the ICR. The estimated burden per application, which decreased slightly due to an arithmetic correction to the estimate in the previous ICR, is otherwise unchanged.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this notice, as described above.

Dated: September 20, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–24378 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7069–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, New Stationary Performance Sources (NSPS) for Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators, 40 CFR part 60, subpart Ec., OMB Control Number 2060–0363, expiration date of September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 29, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1730.03 and OMB Control No. 2060–0363, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *Auby.susan@epamail.epa.gov,* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1730.03. For technical questions about the ICR contact Jonathan Binder in the Office of Enforcement and Compliance Assurance at (202) 564–2516 or *binder.jonathan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Title

Information Collection for New Stationary Sources Hospital/Medical/Infectious Waste Incinerators, 40 CFR part 60, subpart Ec., OMB Control Number 2060–0363, expiring 9/30/01. This is a request for extension of a currently approved collection.

Abstract

Hospital/Medical/Infectious Waste Incinerators (HMIWI), burning hospital waste and/or medical infectious waste are subject to specific reporting and recording keeping requirements. Notification reports are required related to the construction, reconstruction, or modification of an HMIWI. Also required are one-time-only reports related to initial performance test data and continuous measurements of site-specific operating parameters. Annual compliance reports are required related to a variety of site-specific operating parameters, including exceedance of applicable limits. Semi-annual compliance reports are required related to emission rate or operating parameter data that were not obtained when exceedances of applicable limits occurred. Affected entities must retain for five years the reports and records that are required under 40 CFR part 60, subpart Ec and 40 CFR part 60, subpart—General Provisions.

Co-fired combustors and incinerators burning only pathological, low-level radioactive, and/or chemotherapeutic waste are required to submit notification reports of an exemption claim, and an estimate of the relative amounts of waste and fuels to be combusted. These co-fired combustors and incinerators are also required to maintain records on a calendar quarter basis of the weight of hospital waste combusted, the weight of medical/infectious waste combusted, and the weight of all other fuels combusted.

All reports required under the New Source Performance Standard (NSPS) and the General Provisions are submitted to the respondent's state, tribal, or local agency, whichever has been delegated enforcement authority by the EPA. The information is used by EPA solely to determine that all sources subject to the NSPS are in compliance with the NSPS and that the control system installed to comply with the standards is being properly operated and maintained. Based on reported information, EPA can decide which facilities should be inspected and what records or processes should be inspected at the facilities. The records that sources maintain would indicate to EPA whether facility personnel are operating and maintaining control equipment properly. The NSPS for HMIWIs requires initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any start-up, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance and are required of all sources subject to NSPS. 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 EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 12, 2001; (66 FR 18927); no comments were received.

Burden Statement

The annual public reporting and record keeping burden for this collection of information is estimated to average 1.9 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes 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; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Facilities burning hospital waste and/or medical infectious waste.

Estimated Number of Respondents: 6.

Frequency of Response: On occasion, semi-annual, and initial (one-time).

Estimated Total Annual Hour Burden: 4541 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $19618.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No.1730.03 and OMB Control No. 2060–0363 in any correspondence.

Dated: September 20, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–24379 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6622–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information, (202) 564–7167 or *www.epa.gov/oeca/ofa.*

Weekly receipt of Environmental Impact Statements

Filed September 17, 2001 Through September 21, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010353, Final EIS, BOP, FL, GA, MS, AL, Criminal Alien Requirement (CAR) II, To Contract for a Private Contractor-Owned/Contractor-Operated Correctional Facility in Florida, Mississippi, Georgia and Alabama to House Adult-Male and Non-US Citizen, AL, FL, GA and/or MS , Due: October 29, 2001, Contact: David J. Dorworth (202) 514–6470.

EIS No. 010354, Final EIS, FHW, VA, Coalfields Expressway Location Study, Improvements from Route 23 near Pound, VA to the WV State Line east of Slate, VA, Funding and COE Section 404 Permit, Wise, Dickerson and Buchanan, VA, Due: October 29, 2001, Contact: Roberto Fonseca-Martinez (804) 775–3320.

EIS No. 010355, Final EIS, IBR, WA, Keechelus Dam Project, Safety of Dams Modification, Implementation, COE Section 404 Permit, Yakima, Kittitas, Benton, and Klickitat Counties, WA, Due: October 29, 2001, Contact: Dave Kaumheimer (509) 575–5848.

EIS No. 010356, Final Supplement, UMC, AZ, CA, Yuma Training Range Complex Management, Operation and Development, Marine Corps Air Station Yuma, Goldwater Range, Yuma and La Paz Cos., AZ and Chocolate Mountain Range, Imperial and Riverside Counties, CA, Due: October 29, 2001, Contact: Deb Theroux (619) 532–1162.

EIS No. 010357, Draft EIS, SFW, Light Goose Management Plan, Implementation of Reducing and Stabilizing Specific Populations ''Light Geese'' in North America, Due:

November 28, 2001, Contact: Jon Andrew (703) 358–1714.

EIS No. 010358, DRAFT EIS, AFS, MT, Threemile Stewardship Project, A Proposed Short-term and Long-Term Vegetation and Road Management Activities, Ashland Ranger District, Custer National Forest, Powder and Rosebud Counties, MT, Due: November 13, 2001, Contact: Elizabeth McFarland (406) 784–2344. This document is available on the Internet at: http://www.fs.fed.us/r1/custer/.

EIS No. 010359, Final EIS, GSA, MD, Suitland Federal Center, Construction and Operation of a 226-acre Federal Employment Center, Programmatic Development Plan and Phase I Implementation, Prince George's County, MD, Due: October 29, 2001, Contact: Jag Bhargava (202) 708–6944.

EIS No. 010360, Draft EIS, FHW, IN, Indianapolis Northeast Corridor Transportation Connections Study, To Identify Actions to Reduce Expected Year 2025 Traffic Congestion and Enhance Mobility, Between I–69: from I–465 to IN–328; I–465: from US 31 to I–70; I–70: from I–65 to I–465: IN–37 from I–69 to Allisonville Road (Noblesville), Marion and Hamilton Counties, IN, Due: November 28, 2001, Contact: Larry Heil (327) 226–7491.

EIS No. 010361, Draft EIS, FAA, IL, South Suburban Airport, Proposed Site Approval and Land Acquisition, For Future Air Carrier Airport, Will and Kankakee Counties, IL, Due: November 13, 2001, Contact: Denis R. Rewerts (847) 294–7195.

Amended Notices

EIS No. 010302, Draft EIS, DOE, NM, ID, NV, Technical Area 18 (TA–18) Relocation of Capabilities and Materials at the Los Almos National Laboratory (LANL), Operational Activities Involve Research in and the Design, Development, Construction, and Application of Experiments on Nuclear Criticality, NM, NV and ID, Due: October 26, 2001, Contact: James J. Rose (866) 357–4345. Revision of FR Notice Published on 08/17/2001: CEQ Review Period Ending on 10/05/2001 has been Extended to 10/26/2001.

EIS No. 010303, Draft EIS, AFS, WA, Crystal Mountain Master Development Plan, To Provide Winter and Summer Recreational Use, Special-Use-Permit, Mt. Baker-Snoqualmie National Forest, Silver Creek Watershed, Pierce County, WA, Due: October 31, 2001, Contact: Larry Donovan (425) 744–3403. Revision of FR Notice Published on 08/17/2001: CEQ Review Period Ending 10/16/2001 has been extended to 10/31/2001.

EIS No. 010315, Draft EIS, FHW, WA, I–405 Corridor Transportation Improvements, I–5 in the City of Tukwila to I–5 in Snohomish County, Funding and Possible COE Section 404 Permits Issuance, King and Snohomish Counties, CA, Due: October 24, 2001, Contact: James Leonard (FHWA) (360) 753–9408. Revision of FR Notice Published on 08/24/2001: CEQ Comment Period Ending 10/09/2001 has been extended to 10/24/2001.

EIS No. 010334, Draft EIS, IBR, CA, American River Pump Station Project, Providing Placer County Water Agency (PCWA) with the Year-Round Access to its Middle Fork Project (MFP) Water Entitlements from the American River, Placer County, CA, Due: November 13, 2001, Contact: Rod Hall (916) 989–7279. Revision of FR Notice Published on 09/07/2001: CEQ Review Period Ending 10/22/2001 has been extended to 11/13/2001.

EIS No. 010350, Draft EIS, NOA, Dolphin and Wahoo Fishery Management Plan, Establishing Fishery Management Units, Stock Status Determination and Harvesting Restrictions, Initial Regulatory Flexibility Analysis, South Atlantic, Caribbean, and Gulf of Mexico, Due: November 05, 2001, Contact: Joseph E. Powers (727) 570–5301. Published FR 09–21–01—the Correct Website Address should read as http://www.nmfs.noaa.gov/prot_res/overview/publicat.html

EIS No. 010351, Draft EIS, FHW, IL, Lake County Transportation Improvement Project, To Identify a System of Strategic Roadway, Rail, and Bus Improvements, Transportation Management Strategies, Lake County, IL, Due: November 05, 2001, Contact: Norman R. Stoner (217) 492–4640. Published FR–09–21–01—Correction to State from IN to IL.

Dated: September 28, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–24383 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6622–3)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (97 FR 27647).

Draft EISs

ERP No. D–AFS–J65347–MT Rating EC2, Gold/Boulder/Sullivan (GBS), Implementation of Timber Harvest and Associated Activities and Rexford Ranger District, Lincoln County, MT.

Summary: EPA expressed environmental concerns about proposed riparian timber harvests with modification of INFISH RHCA guidelines, harvests in the MA–2 semi-primitive non-motorized recreation area, open road density levels exceeding Forest standards, and regeneration harvests in older forest habitat. EPA recommended that additional analysis be conducted to modify the preferred alternative to optimize environmental and resources trade-offs, and to include monitoring to detect effects on water quality.

ERP No. D–AFS–J65348–CO Rating EC2, Bark Beetle Analysis, Proposal to Reduce Infestation of Trees by Tree-Killing Bark Beetles, Medicine Bow-Routt National Forests, Hahans Peak/Bears Ears Ranger District, Routt, Grand, Jackson and Moffat Counties, CO.

Summary: EPA generally supports beetle suppression activities; however, EPA expressed environmental concerns with potential adverse impacts from thinning and associated road construction. Additional analysis and a description of the proposed adaptive management plan should be considered and included in the FEIS.

ERP No. D–AFS–K65234–CA Rating EC2, Mineral Forest Recovery Project, Proposes to Construct Defensible Fuel Profile Zones (DFPZs), Lassen National Forest, Almanor Ranger District, Tehama County, CA.

Summary: EPA raised concerns related to purpose and need, alternative development, road construction and decommissioning, and analysis of

cumulative impacts associated with maintaining DFPZs.

ERP No. D–AFS–L65386–ID Rating EC2, Little Blacktail Ecosystem Restoration Project, To Improve the Health and Producity of Terrestrial and Aquatic Habitats, Idaho Panhandle National Forests, Sandpoint Ranger District, Bonner County, ID.

Summary: EPA expressed concerns that no rationale was provided about choice of a preferred alternative over a more environmentally beneficial alternative. EPA also believes further rationale is needed on why two alternatives were considered but eliminated. Finally, the EIS needs to discuss how these project activities are consistent with the TMDL for the Cocolalla Creek.

ERP No. D–COE–J64008–SD Rating EC2, Title VI Land Transfer South Dakota, Transfer of 91,178 Acres of Land at Lake Oahe, Lake Sharp, Lake Francise Case, and Lewis & Clark Lake, from the US Army Corps of Engineers (USACE) to the South Dakota Department of Game, Fish and Parks (SDGFP), SD.

Summary: EPA expressed concerns about the absence of an alternatives analysis and mitigation. EPA recommends developing mitigation for threatened and endangered species, water quality, cultural resources and historic properties, and Native American access to lands transferred to the state.

ERP No. D–DOD–A11076–00 Rating EC2, Assembled Chemical Weapons Destruction Technologies at One or More Sites: Design, Construction and Operation of One or More Pilot Test Facilities, Anniston Army Depot, AL; Pine Bluff Arsenal, AR; Blue Grass Army Depot, KY and Pueblo Chemical Depot, CO.

Summary: EPA expressed concern regarding transportation of wastes, impacts on agriculture and accident planning. EPA requested additional information on these issues.

ERP No. D–FHW–F40396–IL Rating EC2, U.S. 67 (FAP–310) Expressway from Jacksonville to Macomb Transportation Improvements, NPDES and COE Section 10 and 404 Permits, Morgan, Cass, Schuyler and McDonough Counties, IL.

Summary: EPA expressed concern regarding purpose and need, alignment alternatives, surface water quality impacts, and groundwater quality impacts.

ERP No. D–FHW–K40245–CA Rating EC2, CA–78/111 Brawley Bypass, Construction of an Expressway from CA–86 to CA–11, City of Brawley, Funding, Imperial County, CA.

Summary: EPA expressed concerns regarding the potential loss of 380 to 450 acres of prime and statewide important farmland from the proposed action, and over 2,500 acres of farmland cumulatively, from the set of highway improvements from the Calexico Port of Entry at the Mexican Border to Riverside County. Additionally, EPA found the air quality analyses to be inconclusive.

ERP No. D–FRC–B03012–00 Rating EC2, Phase III/Hubline Project, Construction and Operation a Natural Gas Pipeline, Maritimes and Northeast Pipeline (Docket No. CPO1–4–000), Algonquin Gas Transmission (Docket No. CP01–5–000) and Texas Eastern Transmission (Docket No. CP01–8–000), MA and CT.

Summary: EPA requested additional information concerning impacts to the marine environment, drinking water supplies and project mitigation.

ERP No. D–FTA–K51041–CA Rating EC2, BART-Oakland International Airport Connector, Extending south from the Existing Coliseum BART Station, about 3.2 miles, to the Airport Terminal Area, Alameda County, CA.

Summary: EPA expressed concerns regarding the absence of a formal jurisdictional wetland delineation and the absence of an environmental review of the candidate sites for the Quality Bus maintenance and storage facility. EPA requested additional analysis and documentation on both of these issues.

ERP No. D–GSA–D81032–MD Rating EC2, Suitland Federal Center, Construction and Operation of a 226-acre Federal Employment Center, Programmatic Development Plan and Phase I Implementation, Prince George's County, MD.

Summary: EPA expressed concern relating to air quality impacts associated with increased traffic and that the phases of development may not conform with the air quality attainment plan. EPA encouraged consultation with the Metropolitan Washington Air Quality Committee prior to the issuance of the FEIS and that GSA make a committed effort to mitigate ongoing traffic impacts by adopting alternatives that will alleviate traffic congestion during standard peak hours.

ERP No. D–SFW–L91014–WA Rating EC2, Icicle Creek Restoration Creek Project, To Protect and Aid in the Recovery of Threatened and Endangered Fish, Leavenworth National Fish Hatchery (LNFH), COE Section 404 and NPDES Permits, Leavenworth, WA.

Summary: EPA's expressed concerns that the DEIS did not evaluate all reasonable alternatives and did not adequately analyze the projects environmental impacts.

ERP No. DA–NPS–K61137–AZ Rating LO, Organ Pipe Cactus National Monument General Management Plan and Development Concept Plan, Updated Information concerning Re-Analysis of Cumulative Effects of the Sonoran Pronghorn, Portion of the Sonoran Desert, Pima County, AZ.

Summary: EPA commended the National Park Service for its thorough evaluation of cumulative effects associated with activities that could potentially impact Sonoran pronghorn, and encouraged the National Park Service to continue to work with federal, state, and local partners to address the continuing incremental reduction in the ability of Sonoran pronghorn to maintain a viable population in United States.

ERP No. DS–USA–K11099–CA Rating EC2, Oakland Army Base Disposal and Reuse Plan, Implementation, New Information concerning a Flexible Alternative, City of Oakland, Alameda County, CA.

Summary: EPA expressed environmental concerns due to pollution prevention issues and environmental justice related impacts/environmental justice related mitigation measures.

Final EISs

ERP No. F–AFS–J65286–MT, Hemlock Point Access Project, Construction of 860 feet of Low Standard Road Access for Plum Creek Lands, Approval, Swan Valley, Swan Lake Ranger District, Flathead National Forest, Lake and Missoula Counties, MT.

Summary: EPA continues to express environmental concerns with impacts from the connected actions of road construction and timber harvest resulting from granting the access easement. EPA concerns are based on potential adverse impacts from Plum Creek road and harvest plans to water quality and fisheries in Windfall Creek and the threatened bull trout and grizzly bear. EPA recommended the ROD address less damaging road construction and logging measures on Plum Creek lands from the proposed action.

ERP No. F–AFS–J65327–CO, Baylor Park Blowdown Project, Salvage and Treat Down and Damaged Timber, To Reduce Impact of Spruce Beetles, Implementation, White River National Forest, Sopris and Rifle Ranger Districts, Garfield, Mesa, and Pitkin Counties, CO.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–J65345–MT, Pink Stone Fire Recovery and Associated Activities, Reduction of Existing and

Expected Future Fuel Accumulations, Kootena National Forest, Rexford Ranger District, Lincoln County, MT.

Summary: EPA expressed environmental concerns about the effects of timber harvest on the fire impacted streams. Additional harvest and fuel reduction action in the preferred alternative will increase peak flow impacts. EPA suggested evaluating an alternative that provides a more optimal balance of the environmental and resource trade-offs.

ERP No. F–BOP–G81010–LA, Pollock Federal Correctional Institution, Construction and Operation, near Town of Pollock, Grant Parish, LA.

Summary: EPA has no objections to the selection of the preferred alternative as described in the Final EIS.

ERP No. F–BOP–K80043–AZ, Southern Arizona Federal Correctional Facility, Construction and Operation, Pima and Yuma Counties, AZ.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–COE–K90029–CA, Delta Wetlands Project, Construction and Operation Water Storage Project on Four Islands in the Sacramento-San Joaquin Delta, Approval of Permits, San Joaquin and Contra Costa Counties, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–G40147–NM, Paseo del Volcon Corridor, Acquisition of Right-of-Way and Construction of Roadway, from the Intersection of I–40 to Intersection of NM–44 near the Town of Bernalillo, Bernalillo and Sandoval Counties, NM.

Summary: EPA has no objection to the selection of the preferred alternative as described in the FEIS. Comments offered on the DEIS have been fully responded to. We have no additional comments to offer.

ERP No. F–GSA–D80030–DC, Department of Transportation Headquarters, Proposal to Lease 1.3 to 1.35 Million Rentable Square Feet of Consolidated and Upgraded Space, Five Possible Sites, Located in the Central Employment Area, Washington, DC.

Summary: The Final EIS adequately addresses the comments raised in the Draft EIS. EPA requested that GSA, prior to the opening of the new DOT Headquarters, coordinate with the Washington Metropolitan Area Transportation Authority (WMATA) on Green Line capacity assurance for the additional DOT passengers.

ERP No. F–IBR–K36132–CA, Colusa Basin Drainage District, Developing an Integrated Resource Management Program for the Control of Flooding, Glenn, Colusa and Yolo Counties, CA.

Summary: EPA urged a focus on effective management and smaller structural approaches such as Best Management Practices, flood easements, setback levees and modified grazing practices. The District and Reclamation have stated that the current evaluation is programmatic and that identified information gaps will be addressed at the project level. We requested a specific commitment in the Record of Decision to full project level evaluation and analysis of these information gaps.

ERP No. F–SFW–K64020–CA, Metro Air Park Habitat Conservation Plan, Issuance of an Incidental Take Permit, To Protect, Conserve and Enhance Fish, Wildlife and Plants and their Habitat, Natomas Basin, Sacramento County, CA.

Summary: EPA remains concerned with cumulative impacts and general conformity with regional air quality plans. We recommended the ROD include a more complete cumulative impact analysis and a general conformity analysis, if applicable.

ERP No. F–USA–K11092–AZ, Yuma Proving Ground Multipurpose Installation, Diversification of Mission and Changes to Land Use, NPDES General Permit and COE Section 404 Permit, Yuma and La Pas Counties, AZ.

Summary: No formal comment letter was sent to the preparing agency.

Dated: September 24, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–24384 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00325 FRL–6805–9]

Workshop on Characterizing and Presenting Summary Chemical Exposure Assessment Results

AGENCY: Environmental Protection Agency.

ACTION: Notice of Postponement of a Workshop.

SUMMARY: This notice is intended to advise interested persons that the Workshop on Characterizing and Presenting Summary Chemical Exposure Assessment Information scheduled for September 25 and 26, 2001 has been postponed. The Workshop Notice appeared in the **Federal Register** on September 17, 2001, (66 FR 48056) (FRL–6800–1). A new date has not been set for the workshop.

FOR FURTHER INFORMATION CONTACT: Fredric C. Arnold, Economics, Exposure, and Technology Division (7406), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 260-6146; e-mail: arnold.fred@epa.gov.

List of Subjects

Environmental protection.

Dated: September 21, 2001.

Mary Ellen Weber,

Director, Economics, Exposure and Technology Division.

[FR Doc. 01–24382 Filed 9–25–01; 3:27 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 7069–4]

Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that two committees of the US EPA Science Advisory Board (SAB) will meet on the dates and times noted below. All times noted are Eastern Standard Time. All meetings are open to the public, however, seating is limited and available on a first come basis. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

1. Research Strategies Advisory Committee (RSAC) October 16–17, 2001

The Research Strategies Advisory Committee (RSAC) of the US EPA Science Advisory Board (SAB), will meet on Tuesday and Wednesday, October 16–17, 2001 at EPA headquarters in room 6013 of the Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20005. The meeting will begin by 8:30 a.m. and adjourn no later than 5 p.m. Eastern Standard time on both days.

The RSAC will conduct a review of two of EPA's Office of Research and Development's multiyear plans. The Committee is expected to review the Pollution Prevention and Water Quality Multiyear Plans, however, the specific multi-year plans to be reviewed are subject to change. EPA uses several means to develop and coordinate it's research activities and has recently developed Multiyear Plans for certain

key research activities to describe the research ORD intends to accomplish to meet the long-term goals and objectives as set forth in the Agency's Strategic Plan. The Committee will also meet with Agency officials to discuss the Agency's FY 2002 budget and to begin to plan for its review of the President's FY 2003 S&T budget request for EPA .

Charge to the Committee—The charge questions for the review of the Multiyear Plans are: (1) Does the multi-year plan convey the Office of Research and Development's strategic research plans for the subject area in an understandable fashion and at an appropriate level of detail?; (2) Do the long term goals and underlying science questions identified in the plan address the most important areas of scientific uncertainty in the subject area?; (3) Does the proposed scope of work proposed by the Office of Research and Development complement research by others?; (4) Would accomplishing the annual performance goals allow the Office of Research and Development to both achieve the long term goals and answer the science questions identified in the plan?; (5) Would accomplishing the annual performance measures clearly demonstrate that the associated annual performance goal was attained?; and (6) Does the plan clearly describe the outcomes that the Office of Research and Development will achieve through the proposed research

For Further Information—Members of the public desiring additional information about the meeting should contact Dr. Jack Fowle, Designated Federal Officer, Research Strategies Advisory Committee (RSAC), USEPA Science Advisory Board (1400A), Room 6450, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4547; fax at (202) 501–0582; or via e-mail at *fowle.jack@epa.gov.* For a copy of the draft meeting agenda, please contact Ms. Wanda Fields, Management Assistant at (202) 564–4539 or by FAX at (202) 501–0582 or via e-mail at *fields.wanda@epa.gov.*

Materials that are the subject of this review are available from Mr. Paul R. Zielinski, Chief, Planning Staff, Office of Science Policy of the Office of Research and Development (202) 564–6772 or by e-mail at *zielinski.paul@epa.gov.*

Providing Oral or Written Comments—Members of the public who wish to make a brief oral presentation to the Committee must contact Dr. Fowle *in writing* (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Thursday, October 11, 2001 in order to be included on the Agenda. The request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself. See below for more information on providing written or oral comments.

2. Environmental Engineering Committee—October 24–26, 2001

The Surface Impoundments Study Subcommittee (SISS) of the Environmental Engineering Committee of the EPA Science Advisory Board will meet on Wednesday through Friday, October 24–26, 2001 at EPA headquarters in Room 6013 of the Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20005. The meeting will begin by 9 a.m. and adjourn no later than 5 p.m. Eastern Standard time on all days. This meeting was originally scheduled for September 17–19, 2001 but was cancelled. For further details, see 66 FR 30917–30920, June 8, 2001.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes. For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access—Individuals requiring special accommodation at these meetings, including wheelchair access to the conference room, should contact the relevant DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: September 21, 2001.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 01–24380 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7069–5]

Public Water System Supervision Program Revisions for the State of Indiana

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300g-2, and subpart B of 40 CFR. part 142, the National Primary Drinking Water Regulations (NPDWR), that the State of Indiana is revising its approved Public Water System Supervision (PWSS) primacy program. On December 8, 1999, the Indiana Department of Environmental Management (IDEM) adopted the NPDWR. On August 19, 1998, the U.S. Environmental Protection Agency (U.S. EPA) promulgated a final rule in 63 FR 44511–44536 requiring community water systems to prepare and provide customers annual Consumer Confidence Reports (CCRs). The U.S. EPA has reviewed Indiana's application to revise its PWSS primacy

program in order to adopt the federal CCR rule.

On April 28, 1998, U.S. EPA also promulgated a final rule to revise the definition of ''Public Water System'' found at 42 U.S.C. 300f(4)(A), 63 FR 23361–23368. The U.S. EPA has completed its review of Indiana's application to revise its PWSS primacy program to conform with the revised definition of ''Public Water System.''

The U.S. EPA has determined that the Indiana rules meet the requirements of the federal rules. Therefore, the U.S. EPA has determined that these State program revisions are no less stringent than the corresponding federal regulations, and is proposing to approve IDEM's rule revisions.

This proposed approval includes the entire adopted Indiana Consumer Confidence Report Rule and the Public Water System Definition.

All interested parties are invited to submit written comments on these proposed determinations, and may request a public hearing on or before October 29, 2001. If a public hearing is requested and granted, the corresponding determinations shall not became effective until such time following the hearing, at which the Regional Administrator issues an order affirming or rescinding this action.

Requests for public hearing should be addressed to: David Horak (WG–15J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determinations and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Indiana. A notice will be sent to the person(s) requesting the hearing as well as to the State of Indiana. The hearing notice will include a statement of purpose, information regarding the time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and should the Regional Administrator not elect to hold a hearing on his own motion, these determinations shall become effective on October 29, 2001. Please bring this notice to the attention of any persons known by you to have an interest in these determinations.

All documents related to these determinations are available for inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Indiana Department of Environmental Management, Office of Water Quality, Drinking Water Branch, 100 N. Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206–6015

U.S. Environmental Protection Agency, Region 5, Ground Water and Drinking Water Branch (WG–15J), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590

FOR FURTHER INFORMATION CONTACT: David Horak, Region 5, Ground Water and Drinking Water Branch, at the Chicago address given above, telephone (312) 353–4306.

(Section 1413 of the Safe Drinking Water Act, as amended (1996) , and 40 CFR 142.10 of the National Primary Drinking Water Regulations)

Dated: August 28, 2001.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. 01–24375 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

September 21, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 27, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1—A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION *OMB Control Number:* 3060–0920.

Title: Application for Construction Permit for a Low Power FM Broadcast Station.

Form Number: FCC 318.

Type of Review: Extension of currently approved collection.

Respondents: Not-for-profit institutions; state, local or tribal government.

Number of Respondents: 2,500.

Estimated time per response: 1 hour 30 minutes for new or major change applications; 45 minutes for minor change applications.

Frequency of Response: Reporting, on occasion.

Total annual burden: 6,315.

Total annual costs: $0.

Needs and Uses: FCC Form 318 is required to apply for a construction permit for a new LPFM station or to make changes in the existing facilities of such a station. The data is used by FCC staff to determine whether an applicant meets basic statutory and regulatory requirements to become a Commission licensee and to ensure that the public interest would be served by grant of the application.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–24281 Filed 9–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3169–EM]

New Jersey; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of New Jersey (FEMA–3169-EM), dated September 19, 2001, and related determinations.

EFFECTIVE DATE: September 19, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 19, 2001, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act), as follows:

Pursuant to the request of the Acting Governor of the State of New Jersey, I hereby declare that an emergency within the meaning of Section 501 (a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act), exists in the State of New Jersey.

I so declare based on the Acting Governor's finding that the conditions in New Jersey resulting from fires and explosions in the State of New York on September 11, 2001, are of such severity and magnitude that effective response requires Federal assistance. These events in New York have had a direct and significant impact on New Jersey, which has provided response services and emergency measures at an extraordinary level due to its immediate proximity to the disaster site in New York, as well as its joint responsibility, through the Port Authority of New York and New Jersey, for facilities such as bridges to New York City.

You are authorized to coordinate all disaster relief efforts that have the purpose of alleviating the hardship and suffering of the local population caused by the emergency and to provide appropriate assistance for required emergency measures, as authorized under Title V of the Stafford Act to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophe in the designated areas. You are further authorized to identify, mobilize, and provide at your discretion equipment and resources necessary to alleviate the impacts of the emergency and such other forms of assistance under Title V of the Stafford Act, as you may deem appropriate. Specifically, you are authorized to provide emergency protective measures (Category B) at 100 percent Federal funding. This assistance excludes regular time costs for subgrantees' regular employees.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Peter Martinasco of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of New Jersey to have been affected adversely by this declared emergency:

Emergency protective measures (Category B) under the Public Assistance program at 100 percent Federal funding for all 21 counties in the State of New Jersey.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–24351 Filed 9–27–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1391–DR]

New York; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York (FEMA–1391–DR), dated September 11, 2001, and related determinations.

EFFECTIVE DATE: September 18, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 18, 2001, the President amended the cost-sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 51521 *et seq.*), in a letter to Joe M. Allbaugh, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the State of New York, resulting from fires and explosions on September 11, 2001, is of sufficient severity and magnitude that the provision of additional Federal assistance to ensure public health and safety is warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5204c (the Stafford Act).

Therefore, I amend my major disaster declaration of September 11, 2001, to provide that the Federal Emergency Management Agency (FEMA) may reimburse 100 percent of total eligible costs for all Categories under Public Assistance. This adjustment of the cost share may be provided to all counties under the major disaster declaration.

Furthermore, because of the unique nature and magnitude of this event, the federal contribution for the Hazard Mitigation Grant Program is authorized for up to five percent of the estimated aggregate amount of grants (less any associated administrative costs). I believe that this amount will sufficiently address the mitigation needs of the State of New York.

Please notify the Governor of New York and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–24350 Filed 9–27–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 12, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Stephen Chandlee Davis, Little Rock, Arkansas; to retain voting shares of Riverside Bancshares, Inc., Little Rock, Arkansas, and thereby indirectly retain voting shares of Riverside Bank, Little Rock, Arkansas.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Wayne Edsall Trust No. 2 (trustee Wayne Edsall), Bozeman, Montana; to acquire additional voting shares of Inter-Mountain Bancorp, Inc., Bozeman, Montana, and thereby indirectly acquire additional voting shares of First State Bank of Fort Benton, Fort Benton, Montana, and First Security Bank, Bozeman, Montana.

Board of Governors of the Federal Reserve System, September 24, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–24276 Filed 9–27–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 15, 2001.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. WCB Bancshares, Inc. 401(k) Plan and Trust (trustee is John A. Malmberg), Lake Elmo, Minnesota; to acquire voting shares of WCB Bancshares, Inc., Oakdale, Minnesota, and thereby indirectly acquire voting shares of Washington County Bank, National Association, Oakdale, Minnesota.

Board of Governors of the Federal Reserve System, September 25, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–24421 Filed 9–27–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 22, 2001.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Berkshire Financial Services, Inc., Lee, Massachusetts; to acquire up to 100 percent of the voting shares of Freedom National Bank (in organization), Greenville, Rhode Island.

B. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. PHSB Financial Corporation, Beaver Falls, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Home Savings Bank, Beaver Falls, Pennsylvania.

C. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Southern Colorado National Bancorp, Inc., Pueblo, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Southern Colorado National Bank, Pueblo, Colorado.

Board of Governors of the Federal Reserve System, September 24, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–24277 Filed 9–27–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies

owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 25, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Clover Leaf Financial Corp., Edwardsville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Clover Leaf Bank, S.B., Edwardsville, Illinois.

Board of Governors of the Federal Reserve System, September 25, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–24420 Filed 9–27–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committee 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 Federal Advisory Committee meeting.

Name: National Vaccine Advisory Committee (NVAC).

Times and Date: 10 a.m.–1 p.m., October 2, 2001.

Place: Audio Conference Call.

Status: This meeting is open to the public, telephone lines are limited. The public can join the meeting by Audio Conference Call by calling (888) 396–9928 and providing the following information:

Leaders Name: Sagar.

Password: NVAC.

Purpose: This committee advises and makes recommendations to the Director of the National Vaccine Program on matters related to the Program responsibilities.

Matters To Be Discussed: Agenda items will include, but not be limited to: A report from the National Vaccine Program Office (NVPO) and the Interagency Vaccine Workgroup; Institute of Medicine (IOM) Report on Thimerasol in Vaccines; a report on the Workgroup on Public Health Options for Implementing Vaccine Recommendations Regional Meetings; an update on Vaccine Supply and a Report from the NVAC Vaccine Supply Workgroup; and a discussion of future priorities of the IOM Vaccine Safety Committee.

Agenda items are subject to change as priorities dictate.

Pubic comments will be permitted at the end of the NVAC meeting on October 2, 2001.

An unavoidable administrative delay prevented meeting the 15-day publication requirement.

CONTACT PERSON FOR MORE INFORMATION: Gloria Sagar, Committee Management Specialist, NVPO, CDC, 4770 Buford Highway, M/S K–77, Atlanta, Georgia 30333, telephone (770)488–2040.

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 24, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–24303 Filed 9–27–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–102, 105]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* CLIA Budget Workload Reports and Supporting Regulations in 42 CFR 493.1–.2001; *Form No.:* HCFA–102/105 (OMB# 0938–0599); *Use:* This information will be used by HCFA to determine the amount of Federal reimbursement for compliance surveys. In addition, the HCFA 102/105 is used for program evaluation, budget formulation and budget approval.; *Frequency:* Quarterly and Annually; *Affected Public:* State, local or tribal government; *Number of Respondents:* 50; *Total Annual Responses:* 50; *Total Annual Hours:* 4,500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS'' Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed

information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: September 11, 2001.

John P. Burke, III,

CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–24285 Filed 9–27–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2099–FN]

RIN 0938–ZA13

Medicare Program; Approval of Deeming Authority for Critical Access Hospitals by the American Osteopathic Association (AOA)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve the American Osteopathic Association's (AOA) initial application as a national accrediting organization for critical access hospitals (CAHs) seeking to participate in the Medicare program. Following our evaluation of the organizational and programmatic capabilities of the AOA, we determined that AOA standards for CAHs meet or exceed the Medicare conditions of participation. Therefore, CAHs accredited by the AOA will be granted deemed status under the Medicare program.

EFFECTIVE DATE: This final notice is effective December 27, 2001, through December 27, 2007.

FOR FURTHER INFORMATION CONTACT: Irene H. Dustin (410) 786–0495.

SUPPLEMENTARY INFORMATION:

I. Background

Statutory Provisions and Regulations

Under the Medicare program, eligible beneficiaries may receive covered services in a critical access hospital (CAH), provided that the CAH meets certain requirements. Sections 1820(c)(2)(B) and 1861(mm) of the Social Security Act (the Act) establish distinct criteria for facilities seeking CAH designation. Under this authority, the minimum requirements that a CAH must meet to participate in Medicare are set forth in regulations at 42 CFR part 485, subpart F (Conditions of Participation: Critical Access Hospitals (CAHs)) which determine the basis and scope of CAH covered services. Conditions for Medicare payment for critical access services are in § 413.70. Applicable regulations concerning provider agreements are at part 489 (Provider Agreements and Supplier Approval) and those pertaining to facility survey and certification are at part 488, subparts A and B.

Verifying Medicare Conditions of Participation

In general, we approve a CAH for participation in, or coverage under the Medicare program, if it is participating as a hospital at the time it applies for CAH designation, and is in compliance with parts 482 (Conditions of Participation for Hospitals), and 485, subpart F (Conditions of Participation: Critical Access Hospitals (CAHs)). Section 403 of the Balanced Budget Refinement Act of 1999 expanded these criteria to allow a limited number of additional facilities to become eligible for CAH designation under certain circumstances. Specifically, a rural health clinic previously downsized from an acute care hospital, or a closed hospital that requests to reopen as a CAH, need only meet the provisions of part 485, subpart F at the time they apply for CAH designation to be eligible to participate in Medicare.

For a hospital to enter into a provider agreement, a State survey agency must certify that the hospital is in compliance with the conditions or standards set forth in the statute and part 482 of our regulations. Then, the hospital is subject to ongoing review by a State survey agency to determine whether it continues meeting Medicare requirements. There is, however, an alternative to State compliance surveys. Certification by a nationally-recognized accreditation program can substitute for ongoing State review.

Section 1865(b)(1) of the Act provides that, if a provider is accredited by a national accreditation body under standards that meet or exceed the Medicare conditions of participation, the Secretary can ''deem'' the provider as meeting the Medicare requirements for those conditions. Accreditation is voluntary and not required for participation in Medicare; providers have the option to undergo State surveys or pursue accreditation. Prior to this application for deeming status by the AOA, there has been no national accreditation organization for CAHs.

II. Deeming Application Approval Process

Section 1865(b)(3)(A) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. Regulations provide us with 210 calendar days to complete our survey activities and application review process. Within sixty days of receiving a completed application, we must publish a notice in the **Federal Register** that identifies the national accreditation body making the request, describes the nature of the request, and provides no less than a 30-day public comment period.

III. Proposed Notice

On April 16, 2001, we published a proposed notice in the **Federal Register** at 66 FR 19509 announcing the AOA's request for approval as a deeming organization for CAHs. In the notice, we detailed our evaluation criteria. Under section 1865(b)(2) of the Act and 42 CFR 488.4, we conducted a review of the AOA application in accordance with the criteria specified by our regulation, which includes, but is not limited to the following:

- An onsite administrative review of AOA's (1) corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors, (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- A comparison of AOA's CAH accreditation standards to our current Medicare conditions of participation standards.
- A documentation review of AOA's processes to:
- Determine the composition of the survey team, surveyor qualifications, and the ability of AOA to provide continuing surveyor training.
- Compare AOA's processes to that of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
- Evaluate AOA's procedures for monitoring providers or suppliers found out of compliance with AOA program requirements.
- Assess AOA's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
- Establish AOA's ability to provide us with electronic data in ASCII-comparable code and reports necessary for effective validation and assessment of AOA's survey process.

• Determine the adequacy of staff and other resources.

• Review AOA's ability to provide adequate funding for performing required surveys.

• Confirm AOA's policies on whether surveys are announced or unannounced.

• Obtain AOA's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(b)(3)(A) of the Act, the proposed notice also solicited public comments regarding whether AOA's requirements met or exceeded the Medicare conditions of participation for CAHs. We received no public comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between AOA and Medicare's Conditions and Survey Requirements

We compared the standards contained in the AOA's published ''2000–2001 Standards Manual of Accreditation Requirements for Critical Access Facilities'' and its survey process in the ''2000–2001 Healthcare Facilities Accreditation Survey Team Handbook'' with the Medicare CAH conditions of participation and CMS's ''State and Regional Operations Manual.'' Our review and evaluation of the AOA's deeming application, which were conducted as described in section III of this notice, yielded the following:

• The AOA provided an updated crosswalk (a table showing the match between their standards and our standards) of the following recommended revisions or clarifications to their requirements to ensure that the requirements meet or exceed CMS requirements.

• AOA adjusted language to consistently refer to Critical Access Hospitals as opposed to Critical Access Facilities.

• AOA modified their standards to require that a doctor of medicine or osteopathy provide medical supervision of the health care staff in addition to providing for the health care staff in order to meet requirements at § 485.631(b)(1)(i).

• AOA added a cross-reference in their crosswalk to the AOA Accreditation Requirements Manual to indicate the location of CMS regulation at § 485.610 regarding status and location.

• AOA added a standard to the crosswalk to include a description of personnel requirements for emergency services provided by the CAH, consistent with § 485.618(d).

• AOA added language to their standards to clarify that a CAH must document in its records any extraordinary circumstances that would excuse the CAH from compliance with the requirement for biweekly physician assessments, as required by § 485.631(b)(2).

• AOA corrected their standard to read ''services provided by the critical access hospital'' rather than ''services provided by the pharmacy,'' in order to meet the requirement in § 485.635(a)(3)(iii).

• AOA added language to their standards to address the CAH's periodic review of the overall utilization of its services, including at least the number of patients served and the volume of services, as specified in § 485.641(a)(1)(i).

• AOA addressed our regulations at § 485.650 for number of beds and length of stay in their Accreditation Requirements Manual. For clarification, AOA cross-referenced this regulation in their crosswalk.

• AOA standards previously indicated resurvey of a CAH every 3 years. AOA modified their standards to indicate in the resurvey requirements that a follow-up visit one year after the initial accreditation survey is required. After the one-year-follow-up, CAHs will be re-surveyed every three years.

• AOA modified its manual to require that CAHs meet the requirements of Chapter 12 (New Health Care Occupancy), or Chapter 13 (Existing Health Care Occupancy) of the 1985 edition of the Life Safety Code (LSC) of the National Fire Prevention Association (NFPA) in accordance with § 485.623(d). AOA added to their application a crosswalk between AOA's LSC standards and ours found at § 485.623(d). Further, AOA added language specifying that facilities must be inspected by AOA and that self-assessment by the CAH does not meet or exceed our requirements. AOA may use their own staff or may provide this service under arrangement with qualified entities.

B. Term of Approval

Based on the review and observations described in section III of this final notice, we have determined that the AOA's requirements for CAHs meet or exceed our requirements. Therefore, we recognize the AOA as a national accreditation organization for CAHs that request participation in the Medicare program, effective December 27, 2001 through December 27, 2007.

V. Collection of Information Requirements

This final notice does not impose any information collection and recordkeeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with granting and withdrawal of deeming authority to national accreditation organizations, in part 488, ''Survey, Certification, and Enforcement Procedures,'' are currently approved by OMB under OMB approval number 0938–0690, with an expiration date of June 30, 2002.

VI. Regulatory Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 98–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

This final notice recognizes the AOA as a national accreditation organization for CAHs that request participation in the Medicare program. There are neither significant costs nor savings for the program and administrative budgets of Medicare. Therefore, this notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866. We have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are

not preparing analyses for either the RFA or section 1102(b) of the Act.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget. In accordance with Executive Order 13132, we have determined that this notice will not significantly affect the rights of States, local or tribal governments.

Authority: Section 1865 of the Social Security Act (42 U.S.C. 1395bb).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplemental Medical Insurance Program)

Dated: September 10, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–24327 Filed 9–27–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: The Revised Reporting Requirements And Transmission Layouts On TANF Work Measures For FY 2002, TANF High Performance Bonuses (HPB).

OMB No.: New Collection.

Description: The purpose of this collection is to obtain data upon which to base the computation for measuring State performance in meeting the legislative goals of TANF as specified in section 403(a)(4) of the Social Security Act and 45 CFR part 270. Specifically, DHHS will use the data to award the portion of the bonus that rewards States for their success in moving TANF recipients from welfare to work. This information collection will replace Form ACF–200 in FY 2002 (Bonus Year 2002). States will not be required to submit this information unless they elect to compete on a work measure for the TANF High Performance Bonus awards.

Respondents: Respondents may include any of the 50 States, Guam, Puerto Rico, and the Virgin Islands.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
The Revised Reporting Requirements And Transmission Layouts On TANF Work Measures For FY 2002, TANF High Performance Bonuses (HPB) ..	54	2	16	1,728
Estimated Total Annual Burden Hours:				1,728

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: September 24, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–24324 Filed 9–27–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Low Income Home Energy Assistance Program (LIHEAP) Carryover and Reallotment Report.

OMB No.: 0970–0106

Description: The LIHEAP statute and regulations require LIHEAP grantees to report certain information to HHS concerning funds forwarded and funds subject to reallotment. The 1994 reauthorization of the LIHEAP statute, the Human Service Amendments of 1994 (Public Law 103–252), requires that the carryover and reallotment report for one fiscal year be submitted to HHS by the grantee before the Allotment for the next fiscal year may be awarded.

We are requesting changes in the collection of data by adding a form, the Carryover and Reallotment Report for FY 20____, for the collection of data previously requested by the Simplified Instructions for Timely Obligations of FY 20____ LIHEAP Funds and Reporting Funds for Carryover and Reallotment. The addition of the form will clarify the information being requested and ensure the submission of all the required information. Use of the form will be voluntary. It is being added in response to numerous queries each year concerning how to provide information. It will not add any additional burden on grantees. Grantees would have the option to use another format.

Respondents:

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Carryover and reallotment	177	1	3	531
Estimated total Annual Burden Hours	.....	.....	.....	531

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: September 24, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–24325 Filed 9–27–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: October 2, 2001.

Time: 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, Md 20892. (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Health Scientific Administrator, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, Md 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: October 11–12, 2001.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Trent Plaza Hotel, 222 St. Paul Pl., Baltimore, Md 21202.

Contact Person: Ramesh Vemuri, PhD, Health Scientific Administrator, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, Md 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: October 23–24, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alicja L. Markowska, PhD, DSC, Scientific Review Office, Gateway Building/Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20817.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: November 27–29, 2001.

Time: 7 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Jefferey M. Chernak, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 21, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24359 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Deafness and Other Communication Disorders Advisory Council, September 21, 2001, 8:30 am to September 21, 2001, 3 p.m., 45 Center Drive, Natcher, Bldg., Conf. Rms. A & D, Bethesda, MD, 20892 which was published in the **Federal Register** on August 23, 2001, 66 FR 44366.

This meeting will be held by teleconference to review grant applications. The meeting is closed to the public.

Dated: September 21, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24360 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Amended Notice of Meeting

Due to the recent tragic events in the United States and resultant travel limitations, notice is hereby given of changes to the meeting of the National Advisory Allergy and Infectious Diseases Council, September 24, 8:30 AM to adjournment, Natcher Building, Conference Room D, Bethesda, MD 20892 which was published in the **Federal Register** on August 29, 2001, 66 FR, 45686.

The Immunology and Transplantation Subcommittee, the Microbiology and Infectious Diseases Subcommittee, and the Acquired Immunodefiency Syndrome Subcommittee will hold their closed sessions as telephone conference calls from 11:00 am to 12:30 pm.

The meeting of the National Advisory Allergy and Infectious Diseases Council will be held as a telephone conference call to review grant applications. The meeting will be held at NIH, 9000 Rockville Pike, Building 31, Room 7A03, Bethesda, MD 20802 beginning from 2:00 pm to adjournment. The meeting will be closed to the public.

Dated: September 19, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24361 Filed 9–27–01; 8:45 am]

BILLING CODE 440–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Amended Notice of Meeting

Due to the recent tragic events in the United States and resultant travel

limitations, notice is hereby given of changes to the meeting of the AIDS Research Advisory Committee, National Institute of Allergy and Infectious Diseases, September 24, 2001, 1:30 PM to 6 PM, Natcher Building, Conference Rooms E1/E2, Bethesda, MD 20892 which was published in the **Federal Register** on August 29, 2001, 66 FR, 44365.

The meeting now will be held at 6700B Rockledge Drive, Room 1205, Bethesda MD 20817 from 12:30 pm to 6 pm. The meeting will remain open to the public, with attendance limited to space available.

Dated: September 19, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24362 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: November 14–15, 2001.

Time: November 14, 2001, 9 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Eleazar Cohen, PhD, Scientific Review Administrator, NIAID/DEA, Scientific Review Program, Room 2220, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–496–2550, ec17w@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 20, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24363 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: October 16–17, 2001.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Martha Ann Carey, Phd, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neurocscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606, mcarey@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: October 19, 2001.

Time: 8 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: The Melrose Hotel, 2430 Pennsylvania Ave., N.W., Washington, DC 20037.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513. psherida@mail.nih.gov

*Name of Committee:*National Institute of Mental Health Special Emphasis Panel.

Date: October 30, 2001.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, dsommers@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: October 31, 2001.

Time: 2 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, dsommers@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 903.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 20, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24364 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.
Date: October 25–26, 2001.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn On The Hill, 415 New Jersey Avenue, Washington, DC 20001.
Contact Person: Katherine Woodbury, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd. Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 20, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24365 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.
Date: November 13–14, 2001.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate contract proposals.
Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Yen Li, Phd, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550, yli@niaid.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 19, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24367 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby give of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.
Date: October 30, 2001.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate contract proposals.
Place: Wyndham City Center, 1143 New Hampshire Avenue, NW., Washington, DC 20037.
Contact Person: Roberta Binder, PhD, Scientific Review Administrator, Division of Extramural Activities, NIAID, 6700B Rockledge Drive, Rm 2155, Bethesda, MD 20892, 301–496–7966, rb169n@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Disease Research, National Institutes of Health, HHS)

Dated: September 19, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24368 Filed 9–27–01; 8:45 am]

BILLING CODE 4180–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scentific Counselors. NIA.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552(b)(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Aging, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIA.
Date: October 22–24, 2001.
Closed: October 22, 2001, 7 p.m. to adjournment.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 23, 2001, 8 a.m. to 8:30 a.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Open: October 23, 2001, 8:30 a.m. to 11:45 a.m.
Agenda: Committee Discussion.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 23, 2001, 11:45 a.m. to 12:45 p.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.
Open: October 23, 2001, 12:45 p.m. to 5 p.m.
Agenda: Committee Discussion.
Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 23, 2001, 5 p.m. to 5:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 24, 2001, 8 a.m. to 8:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Open: October 24, 2001, 8:30 a.m. to 12 p.m.

Agenda: Committee Discussion.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 24, 2001, 12 p.m. to 1 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individuals investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 24, 2001, 1 p.m. to 4 p.m.

Agenda: Committee Discussion.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 24, 2001, 4 p.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Contact Person: Dan L. Longo, MD, Scientific Director, National Institute on Aging, Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825, 410–558–8110, dl14q@nia.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 19, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24369 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and persons information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Visual Sciences A Study Section.

Date: October 7–9, 2001.

Time: 6:30 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Mayflower Renaissance Hotel, 1127 Connecticut Ave. NW., Washington, DC 20036.

Contact Person: Mary Custer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, (301) 435–1164, custerm@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 8, 2001.

Time: 7 pm to 9:30 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites , 1000 29th St., NW., Washington, DC 2007.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7854, Bethesda, MD 20892, (301) 435–1179, bradleye@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 8, 2001.

Time: 9:30 pm to 10 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites , 1000 29th St., NW., Washington, DC 2007.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7854, Bethesda, MD 20892, (301) 435–1179, bradleye@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Radiology Study Section.

Date: October 9–10, 2001.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites , 1000 29th St., NW., Washington, DC 2007.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, bradleye@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.

Date: October 9–10, 2001.

Time: 8 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Virology Study Section.

Date: October 9–10, 2001.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Montgomery Village Ave, Gaithersburg, MD 20879.

Contact Person: Rita Anand, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7808, Bethesda, MD 20892, (301) 435–1151, anandr@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Pathophysoiological Sciences Integrated Review Group, Alcohol and Toxicology Subcommittee 4.

Date: October 9–10, 2001.

Time: 8:30 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.

Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, shayiqr@csr.nih.gov.

This notice is being published less than 15 day prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 9, 2001.

Time: 11:00 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Aghela Y. Ng, PhD, MBA Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, 301–435–1715, nga@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 3.
Date: October 10–11, 2001.
Time: 8:30 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892, (301) 435–1022, ehrenspeckg@.nih.csr.gov.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Medicinal Chemistry Study Section.
Date: October 10–11, 2001.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Ronald J. Dubois, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Visual Sciences B Study Section.
Date: October 10–11, 2001.
Time: 8:30 a.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Christine Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, melchioc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 10, 2001.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692, (301) 435–3504, fungv@csr.nih.gov.

Name of Committee: Molecular, Cellular and Development Neuroscience Integrated Review Group, Visual Sciences C Study Section.
Date: October 11–12, 2001.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: Michael H. Chaitin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, chaitinm@csr.nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 7.
Date: October 11–12, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844m (301) 435–1242.

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Epidemiology and Disease Control Subcommittee 1.
Date: October 11–12, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: J. Scott Osborne, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Hematology Subcommittee 1.
Date: October 11–12, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Robert Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 11–12, 2001.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Prabha L Atreya, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–8367.

Name of Committee: Biochemical Sciences Integrated Review Group, Medical Biochemistry Study Section.
Date: October 11–12, 2001.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: State Plaza Hotel, 2117 E Street, Washington, DC 20037.
Contact Person: Alexander S. Liacouras, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892, (301) 435–1740.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 1.
Date: October 11–12, 2001.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1111 30th Street, NW., Washington, DC 20007.
Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, sayrem@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 11–12, 2001.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Loews L'Enfant Plaza, 480 L'Enfant Plaza, SW., Washington, DC 20024–2197.
Contact Person: Lee S. Mann, PhD, JD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC, 7848, Bethesda, MD 20892, (301) 435–0677.

Name of Committee: Immunological Sciences Integrated Review Group, Experimental Immunology Study Section.
Date: October 11–12, 2001.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC, 7812, Bethesda, MD 20892, (301) 435–3566, cooperc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 11, 2001.
Time: 8:30 am to 6:00 pm.
Agenda: To review and evaluate grant applications.
Place: The Churchill Hotel, 1914 Connecticut Avenue, N.W., Washington, DC 20009.
Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC, 7806, Bethesda, MD 20892, (301) 435–1217, byrnesn@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 11–12, 2001.
Time: 9:00 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Governor's House, 1615 Rhode Island Avenue, NW, Washington, DC 20036.
Contact Person: Julian L. Azorlosa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 11, 2001.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, (301) 435–1245, richard.marcus.@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 11, 2001.

Time: 1:00 pm to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692, (301) 435–3504, fungv@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 20, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24366 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS) National Toxicology Program (NTP)

EPISKIN™, EpiDerm™, and Rat Skin Transcutaneous Electrical Resistance Methods: In Vitro Test Methods Proposed for Assessing the Dermal Corrosivity Potential of Chemicals; Notice of Availability of a Background Review Document and Proposed ICCVAM Test Method Recommendations and Request for Public Comment.

Summary

The NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) announces availability of a background review document (BRD) entitled ''EPISKIN™, EpiDerm™, and Rat Skin Transcutaneous Electrical Resistance (TER) Methods: In Vitro Test Methods for Assessing the Dermal Corrosivity Potential of Chemicals,'' and proposed test method recommendations from the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) on the use of these methods. The NICEATM invites public comment on the BRD and ICCVAM recommendations.

Availability of Background Review Document and Proposed ICCVAM Recommendations

An electronic version of this BRD and proposed ICCVAM test method recommendations may be obtained from the NICEATM/ICCVAM web site at *http://iccvam.niehs.nih.gov*. For a paper copy (a limited number are available), please contact the NICEATM at (919) 541–3398 or via email at *niceatm@niehs.nih.gov*.

Request for Public Comment

NICEATM invites written public comments on the BRD on in vitro corrosivity methods and the proposed ICCVAM recommendations for these methods. The deadline for submission of comments is November 13, 2001. Comments submitted via email are preferred; the acceptable file formats are MS Word (Office 98 or older), plain text, or PDF. Comments should be sent to Dr. William Stokes, Director, NICEATM, NIEHS, MD EC–17, P.O. Box 12233, Research Triangle Park, NC, 27709; telephone 919–541–3398; fax 919–541–0947; email *niceatm@niehs.nih.gov*. Persons submitting written comments should include their contact information (name, affiliation, address, telephone/fax numbers, and email) and sponsoring organization, if any.

Public comments received in response to this **Federal Register** notice will be posted on the NICEATM/ICCVAM web site *http://iccvam.niehs.nih.gov* and provided to the ICCVAM. ICCVAM will consider all comments prior to finalizing its test recommendations on EpiDerm™, EPISKIN™, and Rat Skin TER. In accordance with Public Law 106–545, ICCVAM test recommendations will be forwarded to appropriate Federal agencies and will be made available to the public on the NICEATM/ICCVAM website.

Background

ICCVAM and the ICCVAM Corrosivity Working Group (CWG) recently evaluated three in vitro test methods for assessing the dermal corrosivity potential of chemicals and chemical mixtures—EpiDerm™, EPISKIN™, and Rat Skin TER. EpiDerm™ and EPISKIN™ utilize a three dimensional human skin model comprised of a reconstructed epidermis and a functional stratum corneum. The test chemical is applied to this reconstructed epidenmis for a specified time and subsequent cell viability is measured. Rat Skin TER assesses the skin corrosivity of a chemical by applying the test material to the epidermal surface of a rat skin disc for two and 24 hours; subsequently, the transcutaneous electrical resistance (TER) of the skin disc is measured. NICEATM prepared a background review document summarizing the available data and prior reviews for the three test methods, which was then considered by the CWG and ICCVAM. The CWG concluded, based on the information provided and outcomes of the previous reviews, that further evaluation by an independent scientific peer review panel did not appear necessary, and recommended that these methods undergo ICCVAM evaluation using an expedited review process (ICCVAM, 2001). ICCVAM agreed with the CWG recommendation for expedited review. This process involves the development of a draft ICCVAM position (proposed ICCVAM test recommendations) and publishing the position in the **Federal Register** for public comment. Public comments are considered by ICCVAM, and if no major problems are found, ICCVAM then finalizes its test recommendations and forwards to federal agencies for their determination of regulatory acceptability. If major problems are noted, then ICCVAM will determine an appropriate process for further evaluation, such as an independent peer review panel evaluation.

ECVAM Evaluation

The European Center for the Validation of Alternative Methods (ECVAM) conducted validation studies on these three in vitro methods (Barratt et al., 1998; Fentem et al., 1998; Liebsch et al., 2000). The ECVAM Management Team concluded that EpiDerm™, Rat Skin TER, and EPISKIN™ were scientifically valid for use as replacements for the animal test currently used to distinguish between corrosive and non-corrosive chemicals and for all chemical classes (Fentem et al., 1998; Liebsch et al., 2000).

Other Reviews

The validation status of these three methods was then evaluated by the ECVAM Scientific Advisory Committee (ESAC). The ESAC also concluded that the Rat Skin TER, EpiDerm™, and the EPISKIN™ tests were scientifically

valid for use as replacements for the animal test and were ready to be considered for regulatory acceptance (Balls and Corcelle, 1998; Balls and Hellsten, 2000). The European Scientific Committee for Cosmetic Products and Non-food Products (SCCNFP) evaluated the EPISKIN™ and Rat Skin TER and concluded that they were applicable for the safety evaluation of cosmetic ingredients or mixtures of ingredients (Anon., 1999). The European Commission subsequently adopted EpiDerm™, EPISKIN™, and Rat Skin TER (Anon., 2000).

Proposed ICCVAM Recommendations

ICCVAM proposes that these assays can be used to assess the dermal corrosion potential of chemicals in a weight-of-evidence approach in an integrated testing scheme [e.g., OECD Globally Harmonised Classification System (OECD, 1998); OECD Revised Proposals for Updated Test Guidelines 404 and 405: Dermal and Eye Corrosion/Irritation Studies (OECD, 2001a)]. These integrated testing schemes for dermal irritation/corrosion allow for the use of validated and accepted in vitro methods. In this approach, positive in vitro corrosivity responses do not generally require further testing and can be used for classification and labeling. Negative in vitro corrosivity responses shall be followed by in vivo dermal corrosion/irritation testing. (Note: The first animal used in the irritation/corrosivity assessment would be expected to identify any chemical corrosives that were false negatives in the in vitro test). Furthermore, as is appropriate for any in vitro assay, there is the opportunity for confirmatory testing if false positive results are indicated on a weight of evidence evaluation of supplemental information, such as pH, structure activity relationships (SAR), and other chemical and testing information.

Additional Information About ICCVAM and NICEATM

ICCVAM, with 15 participating Federal agencies, was established in 1997 to coordinate interagency issues on toxicological test method development, validation, regulatory acceptance, and national and international harmonization. The ICCVAM Authorization Act of 2000 (Public Law 106–545) formally authorized and designated ICCVAM as a permanent committee administered by the NIEHS with specific duties that include the technical evaluation of new and alternative testing methods. ICCVAM is charged with developing test recommendations based on those technical evaluations, and forwarding these to Federal agencies for their consideration. The NICEATM was established in 1998 to coordinate and facilitate ICCVAM activities, to provide peer review for validation activities and to promote communication with stakeholders. The NICEATM is located at the NIEHS, Research Triangle Park, NC. Additional information concerning ICCVAM and NICEATM can be found on the ICCVAM/NICEATM web site at *http://iccvam.niehs.nih.gov*.

References

Anon. EU Commission Directive 2000/33/EC of 25 April 2000 (Official Journal of the European Communities), Skin Corrosion, Rat Skin TER and Human Skin Model Assay. OJ L 136, June 8, 2000. Available: *http://embryo.ib.amwaw.edu.pl/invittox/prot/1_13620000608en00010089.pdf* [cited July 19, 2001].

Anon. Scientific Committee for Cosmetic Products, and Non-food Products intended for Consumers. Excerpts of the Outcome of Discussions Record of the 6th Plenary Meeting (SCCNFP) Brussels, Belgium. January 20, 1999. Available: *http://europa.eu.int/comm/food/fs/sc/sccp/out50_en.html* [cited July 19, 2001].

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Organization for Economic Co-operation and Development (OECD). Harmonized Integrated Hazard Classification System for Human Health and Environmental Effects of Chemical Substances, as endorsed by the 28th Joint Meeting of the Chemicals Committee and the Working Party on Chemicals, OECD, Paris, France. (November 1998) *http://www.oecd.org/ehs/Class/HCL6.htm*

OECD. OECD Revised Proposals for Updated Test Guidelines 404 and 405: Dermal and Eye Corrosion/Irritation Studies. [OECD ENV/JM/TG (2001)2]. OECD Environment Directorate, Joint Meeting of the Chemicals Committee and the Working Party on Chemicals, Pesticides and Biotechnology. Test Guidelines Programme. Circulated in preparation for the 13th Meeting of the Working Group of the National Coordinators of the Test Guidelines Programme, OECD, Paris, France. (2001a)

Dated: September 21, 2001.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 01–24371 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); National Toxicology Program (NTP)

Report of the International Workshop on In Vitro Methods for Assessing Acute Systemic Toxicity; Guidance Document on Using In Vitro Data to Estimate In Vivo Starting Doses for Acute Toxicity: Notice of Availability and Request for Public Comment.

Summary

Notice is hereby given of the availability of the reports entitled, ''Report of the International Workshop on In Vitro Methods for Assessing Acute Systemic Toxicity'' NIH Publication 01–4499 and ''Guidance Document on Using In Vitro Data to Estimate In Vivo Starting Doses for Acute Toxicity'' NIH Publication 01–4500. The Report provides conclusions and recommendations from expert scientists based on their review of current in vitro methods for assessing acute toxicity at an October 17–20, 2000 workshop. The workshop was organized by the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) and the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM). The Guidance Document

provides Standard Operating Procedures (SOPs) for performing two in vitro basal cytotoxicity assays and describes how to use this in vitro data to predict starting doses for in vivo acute oral toxicity studies.

Availability of the Documents

To receive a copy of either report, please contact NICEATM at P.O. Box 12233, MD EC–17, Research Triangle Park, NC 27709 (mail), 919–541–3398 (phone), 919–541–0947 (fax), or *niceatm@niehs.nih.gov* (email). The reports are also available on the ICCVAM/NICEATM website at *http://iccvam.niehs.nih.gov.*

Request for Public Comments

NICEATM invites written public comments on the Workshop Report and the Guidance Document. Comments should be sent to NICEATM by November 13, 2001. Comments submitted via e-mail are preferred; the acceptable file formats are MS Word (Office 98 or older), plain text, or PDF. Comments should be sent to Dr. William S. Stokes, Director, NICEATM, NIEHS, MD EC–17, PO Box 12233, Research Triangle Park, NC, 27709; telephone 919–541–2384; fax 919–541–0947; e-mail *niceatm@niehs.nih.gov.* Persons submitting written comments should include their contact information (name, affiliation, address, telephone and fax numbers, and e-mail) and sponsoring organization, if any. Public comments received in response to this **Federal Register** notice will be posted on the NICEATM/ICCVAM web site (*http://iccvam.niehs.nih.gov*).

Background

The International Workshop on In Vitro Methods for Assessing Acute Systemic Toxicity was held October 17–20, 2000, at the Hyatt Regency Crystal City Hotel, 2799 Jefferson Davis Highway, Arlington, VA 22202. The workshop was organized by the NICEATM and ICCVAM, and sponsored by the NIEHS, the NTP, and U.S. EPA. The objectives of the workshop were (1) to assess the current validation status of in vitro test methods that might be useful for assessing the acute systemic toxicity potential of chemicals and (2) to develop recommendations for future research, development, and validation studies that might further enhance the use of in vitro methods for this purpose.

A **Federal Register** notice (Vol. 65, No. 115, pp. 37400–37403, June 14, 2000) requested information and data that should be considered at the workshop, and nominations of expert scientists to participate in the workshop. A second **Federal Register** notice (Vol. 65, No. 184, pp. 57203–57205, September 21, 2000) announced availability of the workshop agenda, registration information, and a background summary of available in vitro methods.

At the workshop, the invited expert scientists were divided into four breakout groups as follows:

Breakout Group 1: In Vitro Screening Methods for Assessing Acute Toxicity
Breakout Group 2: In Vitro Methods for Toxicokinetic Determinations
Breakout Group 3: In Vitro Methods for Predicting Organ-Specific Toxicity
Breakout Group 4: Chemical Data Sets for Validation of In Vitro Acute Toxicity Test Methods

Each breakout group subsequently prepared a written report that represented the consensus of the invited scientists assigned to that group and these reports are included in the Workshop Report. It also includes as appendices: A detailed workshop agenda; summary minutes of plenary sessions and public comments; the background document for workshop participants; a NICEATM summary of the Multicenter Evaluation of In Vitro Cytotoxicity (MEIC); a summary of Federal regulations on acute toxicity; related **Federal Register** notices; and ICCVAM test method recommendations. The ICCVAM test recommendations were developed following the workshop to forward to Federal agencies in accordance with Pub. L. 106–545.

The Breakout Group on In Vitro Screening Methods recommended preparation of a document that would provide guidance on how to use in vitro data to estimate starting doses for in vivo acute toxicity studies. Three scientists subsequently collaborated with the NICEATM to develop a ''Guidance Document on Using In Vitro Data to Estimate In Vivo Starting Doses for Acute Toxicity''. The Guidance Document provides SOPs for conducting two in vitro cytotoxicity tests (the BALB/c 3T3 Neutral Red Uptake (NRU) and the Normal Human Keratinocyte (NHK) NRU assays) and instruction for using these assays to estimate starting doses for in vivo testing. The Guidance Document also includes the ZEBET (German National Centre for the Documentation and Evaluation of Alternatives to Animal Experimentation) Registry of Cytotoxicity (RC) Regression Analysis that provides a mathematical relationship between acute oral systemic rodent toxicity and in vitro basal cytotoxicity using data for 347 chemicals (Halle, 1998; Spielmann et al., 1999). The Guidance Document expands on an approach suggested by Spielmann and colleagues that—as an initial step—the relationship found with the RC data be used to predict starting doses for subsequent in vivo acute lethality assays.

Additional Information About ICCVAM and NICEATM

ICCVAM, with 15 participating Federal agencies, was established in 1997 to coordinate interagency issues on toxicological test method development, validation, regulatory acceptance, and national and international harmonization. The ICCVAM Authorization Act of 2000 (Pub. L. 106–545) formally authorized and designated ICCVAM as a permanent committee administered by the NIEHS with specific duties that include the technical evaluation of new and alternative testing methods. ICCVAM is charged with developing test recommendations based on those technical evaluations, and forwarding these to Federal agencies for their consideration. The NICEATM was established in 1998 to coordinate and facilitate ICCVAM activities, to provide peer review for validation activities and to promote communication with stakeholders. The NICEATM is located at the NIEHS, Research Triangle Park, NC. Additional information concerning ICCVAM and NICEATM can be found on the ICCVAM/NICEATM web site at *http://iccvam.niehs.nih.gov.* In accordance with Public Law 106–545, the Workshop Report and the Guidance Document will be forwarded with ICCVAM test recommendations to Federal agencies for their consideration.

References

Halle, W. 1998. Toxizitätsprüfungen in Zellkulturen für eine Vorhersage der akuten Toxizität (LD_{50}) zur Einsparung von Tierversuchen. Life Sciences/Lebenswissenschaften, Volume 1, 94 pp., Jülich: Forschungszentrum Jülich.

Spielmann, H., E. Genschow, M. Liebsch, and W. Halle. 1999. Determination of the starting dose for acute oral toxicity (LD_{50}) testing in the up and down procedure (UDP) from cytotoxicity data. ATLA 27: 957–966.

Dated: September 18, 2001.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 01–24370 Filed 9–27–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–67]

Notice of Submission of Proposed Information Collection to OMB; Technical Assistance for Community Planning and Development Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 29, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2506–0166) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information.

Title of Proposal: Technical Assistance for Community Planning and Development Programs.

OMB Approval Number: 2506–0166.

Form Numbers: HUD–424M, HUD–50070, HUD–50071, HUD–2880, HUD–2992.

Description of the Need for the Information and its Proposed Use: Periodically, HUD conducts competitions to select technical assistance providers to supply expertise to CPD grantees to shape their CPD and other available resource into effective, coordinated, neighborhood and community development strategies to revitalize and physically, socially and economically strengthen their communities.

Respondents: Business or other for profit, Not-for-Profit Institutions, State, Local or Tribal Government.

Frequency of Submission: Quarterly.

Reporting Burden:

Number of respondents	×	Frequency of responses	×	Hours per response	=	Burden hours
152		24.25		6.3		23,264

Total Estimated Burden Hours: 23,264.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 20, 2001.

Donna L. Eden,

Director, Office of Investment Strategies, Policy and Management.

[FR Doc. 01–24264 Filed 9–27–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–68]

Notice of Submission of Proposed Information Collection to OMB; Tribal Colleges and Universities Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 29, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2528–0215) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne__Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of

an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information.

Title of Proposal: Tribal Colleges and Universities Program.

OMB Approval Number: 2528–0215.

Form Numbers: HUD–50070, HUD–50071, HUD–424–M, HUD–2880.

Description of the Need for the Information and Its Proposed Use: A grant to provide assistance to tribal colleges and universities to use to build, expand, renovate, and equip their own facilities.

Respondents: Not-for-Profit Institutions, State, Local or Tribal Government.

Frequency of Submission: Semi-annually, Other (Final Report).

Reporting Burden:

Number of respondents	×	Frequency of responses	×	Hours per response	=	Burden hours
32		1.6		62		3,208

Total Estimated Burden Hours: 3,208.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 18, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–24263 Filed 9–27–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4463–N–08]

Notice of FHA Debenture Call

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice announces a debenture recall of certain Federal Housing Administration debentures, in accordance with authority provided in the National Housing Act.

FOR FURTHER INFORMATION CONTACT: Richard Keyser, Room 3119P, L'Enfant Plaza, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–7510 x137. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to Sections 204(c) and 207(j) of the National Housing Act, 12 U.S.C. 1710(c), 1713(j), and in accordance with HUD's regulation at 24 CFR 203.409 and 207.259(e)(3), the Federal Housing Commissioner, with approval of the Secretary of the Treasury, announces the call of all Federal Housing Administration debentures, with a coupon rate of 6.375 percent or above, except for those debentures subject to ''debenture lock agreements'', that have been registered on the books of the Federal Reserve Bank of Philadelphia, and are, therefore, ''outstanding'' as of September 30, 2001. The date of the call is January 1, 2002.

The debentures will be redeemed at par plus accrued interest. Interest will cease to accrue on the debentures as of the call date. Final interest on any called debentures will be paid with the principal at redemption.

During the period from the date of this notice to the call date, debentures that are subject to the call may not be used by the mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer of debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after October 1, 2001. This does not affect the right of the holder of a debenture to sell or assign the debenture on or after this date. Payment of final principal and interest due on January 1, 2002, will be made automatically to the registered holder.

Dated: September 21, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 01–24262 Filed 9–27–01; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–39]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center,

HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: **AIR FORCE:** Ms. Barbara Jenkins, Air Force Real Estate Agency, (Area-MI), Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; **GSA:** Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–0052; **INTERIOR:** Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW, Washington, DC 20240; (202) 219–0728; **NAVY:** Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll–free numbers).

Dated: September 20, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 9/28/01

Suitable/Available Properties

Buildings (by State)

Alabama

Federal Bldg.
301 Third Ave.
Cullman Co: AL 35055–
Landholding Agency: GSA
Property Number: 54200120005
Status: Excess
Comment: 30,887 sq. ft., 2-story, most recent use—office
GSA Number: 4–G–AL–769

California

Bldg. 50
Naval Postgraduate School
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200130106
Status: Excess
Comment: 252 sq. ft., needs rehab, presence of asbestos, most recent use—storage

Bldg. 58
Naval Postgraduate School
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200130107
Status: Excess
Comment: 1200 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage

Bldg. 203
Naval Postgraduate School
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200130108
Status: Excess
Comment: 7956 sq: ft., presence of asbestos, most recent use—admin.

Bldg. 209A
Naval Postgraduate School
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200130109
Status: Excess
Comment: 1826 sq. ft., presence of asbestos/lead paint, most recent use—sotorage

Bldg. 258
Naval Postgraduate School
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200130110
Status: Excess
Comment: 6468 sq. ft., presence of asbestos/lead paint, most recent use—firehouse

Illinois

Milo Comm. Tower Site
350 N. Rt. 8
Milo Co: Bureau IL 56142–
Landholding Agency: GSA
Property Number: 54200020018
Status: Excess
Comment: 120 sq. ft. cinder block bldg.
GSA Number: 1–D–IL–795

LaSalle Comm. Tower Site
1600 NE 8th St.
Richland Co: LaSalle IL 61370–
Landholding Agency: GSA
Property Number: 54200020019
Status: Excess
Comment: 120 sq. ft. cinder block bldg. and a 300′ tower
GSA Number: 1–D–IL–724

Kentucky

Soc. Sec. Admin. Fed. Bldg.
614 Master Street
Corbin Co: KY 40702–
Landholding Agency: GSA
Property Number: 54200120001
Status: Excess
Comment: approx. 9078 sq. ft., some repair needed, presence of asbestos/lead paint, most recent use—offices
GSA Number: 4–G–KY–609

Maryland

La Plata Housing
Radio Station Rd.
La Plata Co: Charles MD
Landholding Agency: GSA
Property Number: 54200110006
Status: Excess
Comment: townhouse complex of 20 units, 3-bedroom units = 997 sq. ft., 1115 sq. ft., and 1011 sq. ft., needs rehab, presence of asbestos/lead paint
GSA Number: 4–N–MD–601

29 Bldgs.
Walter Reed Army Medical Center
Forest Glen Annex, Linden Lane
Silver Spring Co: Montgomery MD 20910–1246
Location: 24 bldgs. are in poor condition, presence of asbestos/lead paint, most recent use—hospital annex, lab, office
Landholding Agency: GSA
Property Number: 54200130012
Status: Excess
Comment: Historic Preservation Covenants will impact reuse, property will not be parcelized for disposal, high cost associated w/maintenance, estimated cost to renovate $17 million
GSA Number: 4–D–MD–558–B

Massachusetts

Cross Terrace
S. Weymouth Naval Air Station
S. Weymouth Co: MA
Landholding Agency: GSA
Property Number: 54200110004
Status: Excess
Comment: 5 one story, 2 bedroom duplex housing units, needs rehab, off-site use only
GSA Number: 1–U–MA–860

USCG Air Station
Cape Cod Co: Barnstable MA
Landholding Agency: GSA
Property Number: 54200110005
Status: Underutilized
Comment: 60—2 & 3 bedroom housing units, may be difficulty in moving foundation, off-site use only
GSA Number: 1–U–MA–859

Michigan

Natl Weather Svc Ofc
214 West 14th Ave.
Sault Ste. Marie Co: Chippewa MI
Landholding Agency: GSA
Property Number: 54200120010
Status: Excess
Comment: 2230 sq. ft., presence of asbestos, most recent use—office
GSA Number: 1–C–MI–802

Minnesota

GAP Filler Radar Site
St. Paul Co: Rice MN 55101–
Landholding Agency: GSA
Property Number: 54199910009
Status: Excess
Comment: 1266 sq. ft., concrete block, presence of asbestos/lead paint, most recent use—storage, zoning requirements, preparations for a Phase I study underway, possible underground storage tank
GSA Number: 1–GR(1)–MN–475

Nevada

6 Cabins
#70, 14, 24, 5, 2, 21
Lake Meade, 601 Nevada Highway
Boulder Co: NV 89005–
Landholding Agency: Interior
Property Number: 61200130011
Status: Unutilized
Comment: vacation cabins, remote location, entranced fee required, presence of asbestos, off-site use only

New Jersey

Old Bridge Housing
Route 9
Old Bridge Co: NJ 08857–
Landholding Agency: GSA
Property Number: 54199940010
Status: Excess
Comment: 12 three bedroom housing units, no long-term wastewater treatment system for property, presence of asbestos/lead paint, needs repair
GSA Number: 0–0–NJ–000

Holmdel Housing Site
Telegraph Hill Road
Holmdel Co: Monmouth NJ 07733–
Landholding Agency: GSA
Property Number: 54200040005
Status: Excess
Comment: 12 housing units on 5.59 acres, 1196 sq ft. each, extreme disrepair
GSA Number: 1–N–NJ–622

New York

''Terry Hill''
County Road 51
Manorville NY
Landholding Agency: GSA
Property Number: 54199830008
Status: Surplus
Comment: 2 block structures, 780/272 sq. ft., no sanitary facilities, most recent use—storage/comm. facility, w/6.19 acres in fee and 4.99 acre easement, remote area
GSA Number: 1–D–NY–864

Binghampton Depot
Nolans Road
Binghampton Co: NY 00000–
Landholding Agency: GSA
Property Number: 54199910015
Status: Excess
Comment: 45,977 sq. ft., needs repair, presence of asbestos, most recent use—office
GSA Number: 1–G–NY–760A

Naval Reserve Center
Frankfort Co: Herkimer NY
Landholding Agency: GSA
Property Number: 54200040006
Status: Excess
Comment: 23,800 sq. ft., brick, good condition, most recent use—training center
GSA Number: 1–D–NY–874

Lockport Comm. Facility Annex
6625 Shawnee Road
Wheatfield Co: NY 14120–
Landholding Agency: GSA
Property Number: 54200120009
Status: Excess
Comment: 3334 sq. ft., presence of asbestos, most recent use—admin/storage
GSA Number: 1–D–NY–885

Pennsylvania

Uniontown Fed. Bldg.
34 West Peter Street
Uniontown Co: Fayette PA 15401–3336
Landholding Agency: GSA
Property Number: 54200110009
Status: Excess
Comment: 24,031 sq. ft., office space, possible lead paint/asbestos, hostoric property
GSA Number: 4–G–PA–789

Uniontown Federal Bldg.
34 West peter Street
Uniontown Co: Fayette PA 15401–3336
Landholding Agency: GSA
Property Number: 54200110011
Status: Excess
Comment: 24,031 sq. ft., office space, presence of asbestos/possible lead paint, historic property
GSA Number: 4–G–PA–789

South Carolina

Greenwood Fed. Bldg.
120 Main Street
Greenwood Co: SC 29646–
Landholding Agency: GSA
Property Number: 54200120012
Status: Excess
Comment: 35,782 sq. ft., presence of asbestos, possible lead paint, most recent use—office, historic preservation covenents
GSA Number: 4–G–SC–601

SSA/Fed. Bldg.
404 East Main Street.
Rock Hill Co: York SC 29730–
Landholding Agency: GSA
Property Number: 54200120013
Status: Surplus
Comment: 45895 sq. ft., presence of asbestos, most recent use—office.
GSA Number 4–SC–600

Tennessee

Marine Corps Rsv Center
2109 W. Market St.
Johnson City Co: Washington TN 37604
Landholding Agency: GSA
Property Number: 54200120003
Status: Surplus
Comment: 4 bldgs., presence of asbestos/lead paint, possible environmental restrictions, most recent use—training/storage.
GSA Number: 4–N–TN–0651

Virginia

Bldg. R–49
Naval Station
Norfolk Co: VA 23511–3095
Landholding Agency: Navy
Property Number: 77200130128
Status: Excess
Comment: 12506 sq. ft., extensive termite destruction, presence of asbestos, most recent use—admin., off-site use only

Bldg. SP–122
Naval Station
Norfolk Co: VA 23511–3095
Landholding Agency: Navy
Property Number: 77200130129
Status: Excess
Comment: 1994 sq. ft., needs rehab, presence of asbestos, most recent use—instructions bldg., off-site use only

Bldg. Z–206
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200130130
Status: Excess
Comment: 37499 sq. ft., needs rehab, most recent use—shed, off-site use only

West Virginia

Beckley Fed. Bldg.
400 Neville Street
Beckley Co: Raleigh WV 25801–
Landholding Agency: GSA
Property Number: 54200110002
Status: Excess
Comment: 2 story, good condition, presence of asbestos—pipes
GSA Number: 4–5–WV–538

Land (by State)

Missouri

Improved Land
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: MO 63120–1798
Landholding Agency: GSA
Property Number: 54200110007
Status: Surplus
Comment: 21 acres w/2 large bldgs. and numerous small bldgs. situated on 13 acres, 5 acres = parking lot and streets, presence of asbestos/lead paint, clean-up required to state regulator standards
GSA Number: 000000

Ohio

Jersey Tower Site
Tract No. 100 & 100E
Jersey Co: Licking OH 00000–
Landholding Agency: GSA
Property Number: 54199910013
Status: Surplus
Comment: 4.24 acres, subject to preservation of wetlands
GSA Number: 1–W–OH–813

Licking County Tower Site
Summit & Haven Corner Rds.
Pataskala Co: Licking OH 43062–
Landholding Agency: GSA
Property Number: 54200020021
Status: Excess
Comment: Parcel 100 = 3.67 acres, Parcel 100E = 0.57 acres
GSA Number: 1–W–OH–813

Pennsylvania

Gwen Site #868

Bonneauville
Smith Road
Gettysburg Co: Adams PA
Landholding Agency: GSA
Property Number: 54200040007
Status: Surplus
Comment: 13.85 acres, most recent use—to support communication
GSA Number: 4–D–PA–0788

Suitable/Unavailable Properties

Buildings (by State)

Alabama

Residence 1223
204 Akin Drive
Tuskegee Co: Macon AL 36083–
Landholding Agency: GSA
Property Number: 54200020023
Status: Excess
Comment: 1375 sq. ft., brick veneer, most recent use—residential
GSA Number: 4–A–AL–768

Georgia

Federal Building
109 N. Main Street
Lafayette Co: Walker GA 30728–
Landholding Agency: GSA
Property Number: 54199910014
Status: Excess
Comment: approx. 4761 sq. ft., does not meet ADA requirements for accessibility, easements/reservations restrictions, historic protective covenants
GSA Number: 4–G–GA–858

U.S. Post Office/Courthouse
337 W. Broad St.
Albany Co: Dougherty GA 31702–
Landholding Agency: GSA
Property Number: 54200120002
Status: Excess
Comment: 4800 sq. ft., presence of asbestos/lead paint, historic preservation covenants, most recent use—Fed. ofcs/P.O./Courthouse
GSA Number: 4–G–GA–866A

Illinois

Radar Communication Link
½ mi east of 116th St.
Co: Will IL
Landholding Agency: GSA
Property Number: 54199820013
Status: Excess
Comment: 297 sq. ft., concrete block bldg. with radar tower antenna, possible lead based paint, most recent use—air traffic control
GSA Number: 2–U–IL–696

Maryland

Washington Court Apartments
Maryland Rt. 755
Edgewood Co: Harford MD 21040–
Landholding Agency: GSA
Property Number: 5419994005
Status: Excess
Comment: 55 bldgs. housing 276 apartments, (2 to 4 bedrooms), need repairs, presence of lead based paint, property published in error as available on 2/11/00
GSA Number: 4–D–MD–559

De LaSalle Bldg.
4900 LaSalle Road
Avondale Co: Prince George MD 20782–
Landholding Agency: GSA
Property Number: 54200020007
Status: Excess
Comment: 130,000 sq. ft., multi-story on 17.79 acres, extensive rehab required, presence of asbestos/lead paint/pigeon infestation, subj. to easements, eligible for Nat'l Register
GSA Number: 4–G–MD–565A

Cheltenham Naval Comm. Dtchmt.
9190 Commo Rd., AKA 7700
Redman Rd.
Clinton Co: Prince George MD 20397–5520
Landholding Agency: GSA
Property Number: 77199330010
Status: Excess
Comment: 32 bldgs., various sq. ft., most recent use—admin/comm, & 39 family housing units on 230.35 acres, presence of lead paint/asbestos, 20.09 acres leased to County w/improvements
GSA Number: 4–N–MD–544A

Michigan

Detroit Job Corps Center
10401 E. Jefferson & 1438 Garland;
1265 St. Clair
Detroit Co: Wayne MI 42128–
Landholding Agency: GSA
Property Number: 54199510002
Status: Surplus
Comment: Main bldg. is 80,590 sq. ft., 5-story, adjacent parking lot, 2nd bldg. on St. Clair Ave. is 5140 sq. ft., presence of asbestos in main bldg., to be vacated 8/97
GSA Number: 2–L–MI–757

Minnesota

MG Clement Trott Mem. USARC
Walker Co: Cass MN 56484–
Landholding Agency: GSA
Property Number: 54199930003
Status: Excess
Comment: 4320 sq. ft. training center and 1316 sq. ft. vehicle maintenance shop, presence of environmental conditions
GSA Number: 1–D–MN–575

Mississippi

Federal Building
236 Sharkey Street
Clarksdale Co: Coahoma MS 38614–
Landholding Agency: GSA
Property Number: 54199910004
Status: Excess
Comment: 15,233 sq. ft., courthouse
GSA Number: 4–G–MS–553

Missouri

Hardesty Federal Complex
607 Hardesty Avenue
Kansas City Co: Jackson MO 64124–3032
Landholding Agency: GSA
Property Number: 54199940001
Status: Excess
Comment: 7 warehouses and support buildings (540 to 216,000 sq. storage/office, utilities easement
GSA Number: 7–G–MO–637

North Carolina

Barhell Army Missile Plant
Burlington Co: Alamance NC 27215–
Landholding Agency: GSA
Property Number: 54199820002
Status: Excess
Comment: 31 bldgs., presence of asbestos, most recent use—admin., warehouse, production space and 10.04 acres parking area, contamination at site—environmental clean up in process
GSA Number; 4–D–NC–593

Vehicle Maint. Facility
310 New Bern Ave.
Raleigh Co: Wake NC 27601–
Landholding Agency: GSA
Property Number: 54200020012
Status: Excess
Comment: 10,455 sq. ft., most recent use—maintenance garage
GSA Number; NC076AB

Goldsboro Federal Bldg.
134 North John Street
Goldsboro Co: Wayne NC 27530–
Landholding Agency: GSA
Property Number: 54200020016
Status: Excess
Comment: 24,492 sq. ft., presence of asbestos/lead paint
GSA Number: 4–G–NC–736

Tennessee

3 Facilities, Guard Posts
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930011
Status: Surplus
Comment: 48–64 sq. ft., most recent use—access control, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

4 Bldgs.
Volunteer Army Ammunition Plant
Railroad System Facilities
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930012
Status: Surplus
Comment: 144–2,420 sq. ft., most recent use—storage/rail weighting facilities/dock, potential use restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

200 bunkers
Volunteer Army Ammunition Plant
Storage Magazines
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930014
Status: Surplus
Comment: approx. 200 concrete bunkers covering a land area for approx. 4000 acres, most recent use—storage/buffer area, potential use restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

Bldg. 232
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930020
Status: Surplus
Comment: 10,000 sq. ft., most recent use—office, presence of asbestos, approx. 5 acres associated w/bldg., potential use restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

2 Laboratories
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930021

Status: Surplus
Comment: 2000–12,000 sq. ft., potential use/lease restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

3 Facilities
Volunteer Army Ammunition Plant
Water Distribution Facilities
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930022
Status: Surplus
Comment: 256–15,204 sq. ft., 35.86 acres associated w/bldgs., most recent use—water distribution system, potential use/lease restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

Naval Hospital
5720 Integrity Drive
Millington Co: Shelby TN 38054–
Location: Bldgs. 98, 100, 103, 105, 111, 114, 116, 117, 118
Landholding Agency: GSA
Property Number: 54200020005
Status: Excess
Comment: 9 bldgs., various sq. ft., need major rehab
GSA Number: 4–N–TN–648

West Virginia

Moundsville Federal Bldg.
7th Street
Moundsville Co: Marshall WV 26041–
Landholding Agency: GSA
Property Number: 54200020024
Status: Excess
Comment: 9674 sq. ft., good condition, presence of asbestos, most recent use—office space
GSA Number: 4–G–WV–535

Old Post Office
Maple & King Streets
Martinsburg Co: Berkeley WV 25401–
Landholding Agency: GSA
Property Number: 54200030004
Status: Excess
Comment: 22,845 sq. ft., presence of asbestos/lead paint, most recent use—office/storage, included on the Natl Register of Historic Places
GSA Number: 4–G–WV–537

Former Army Rsv Ctr
201 Kanawha Avenue
Rainelle Co: WV 25962–1107
Landholding Agency: GSA
Property Number: 54200030006
Status: Excess
Comment: needs repair, possible asbestos/lead paint
GSA Number: 4–D–WV–536

Wisconsin

Wausau Federal Building
317 First Street
Wausau Co: Marathon WI 54401–
Landholding Agency: GSA
Property Number: 54199820016
Status: Excess
Comment: 30,500 sq. ft., presence of asbestos, eligible for listing on the Natl Register of Historic Places, most recent use—office
GSA Number: 1–G–WI–593

Army Reserve Center
401 Fifth Street
Kewaunee Co: WI 54216–1838
Landholding Agency: GSA
Property Number: 54199940004
Status: Excess
Comment: 2 admin. bldgs. (15,593 sq. ft.), 1 garage (1325 sq. ft.), need repairs, property was published in error as availabe on 2/11/00
GSA Number: 1–D–WI–597

Land (by State)

Maryland

12.52 acres
Casson Neck
Cambridge Co: Dorchester MD 00000–
Landholding Agency: GSA
Property Number: 54200020020
Status: Excess
Comment: 12.52 acres, possible restrictions due to wetlands
GSA Number: 4–U–MD–600A

Mississippi

Proposed Site
Army Reserve Center
Waynesboro Co: Wayne MD 39367–
Landholding Agency: GSA
Property Number: 54200010005
Status: Excess
Comment: 7.60 acres, most recent use—pine plantation, periodic flooding, possible wetlands on 30–40% of property
GSA Number: 4–D–MS–0555

North Carolina

6.45 acres
Portion of McKinney Lake
Fish Hatchery
Millstone Church Road
Hoffman Co: Richmond NC 28347–
Landholding Agency: GSA
Property Number: 54200020011
Status: Excess
Comment: 6.45 acres, most recent use—outdoor horticulture classes

Puerto Rico

La Hueca—Naval Station
Roosevelt Roads
Vieques PR 00765–
Landholding Agency: GSA
Property Number: 54199420006
Status: Excess
Comment: 323 acres, cultural site

Bahia Rear Range Light
Ocean Drive
Catano Co: PR 00632–
Landholding Agency: GSA
Property Number: 54199940003
Status: Excess
Comment: 0.167 w/skeletal tower, fenced, aid to navigation
GSA Number: 1–T–PR–508

Tennessee

1500 acres
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930015
Status: Surplus
Comment: scattered throughout facility, most recent use—buffer area, steep topography, potential use restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

Unsuitable Properties

Buildings (by State)

Alabama

Sand Island Light House
Gulf of Mexico
Mobile AL
Landholding Agency: GSA
Property Number: 54199610001
Status: Excess
Reason: Inaccessible
GSA Number: 4–U–AL–763

Mobile Point Light
Gulf Shores Co: Baldwin AL 36542–
Landholding Agency: GSA
Property Number: 54199940011
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–U–AL–767

Arizona

Bldgs. 301, 302, 303, 304
Lake Mead
Willow Beach Co: Mojave AZ
Landholding Agency: Interior
Property Number: 61200130012
Status: Unutilized
Reason: Extensive deterioration

Florida

Cape St. George Lighthouse
St. George Island Co: Franklin FL 32328–
Landholding Agency: GSA
Property Number: 54199940012
Status: Excess
Reasons: Floodway, Extensive deterioration
GSA Number: 4–U–FL–1167

Boca Grande Range
Rear Light
Gasparila Island Co: Lee FL 33921–
Landholding Agency: GSA
Property Number: 54199940013
Status: Excess
Reason: Floodway
GSA Number: 4–U–FL–1169

Sanibel Island Light
Sanibel Co: Lee FL 33957–
Landholding Agency: GSA
Property Number: 5419994014
Status: Excess
Reason: Floodway
GSA Number: 4–U–FL–1162

''Storage Bldg.''
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130138
Status: Underutilized
Reason: Secured Area

Bldg. A–108
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130139
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. A–109
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130140
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. A–134
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130141
Status: Unutilized
Reasons:Within 2000 ft. of flammable or explosive material, Within airpirt runway clear zone, Secured Area

Bldg. A–227
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130142
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area

Bldg. A–515
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 772200130143
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area

Bldg. A–963
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130144
Status: Unutilized
Reason: Secured Area

Bldg. A–993
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130145
Status: Unutilized
Reason: Secured Area

Bldg. A–4067
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130146
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Within airport runway clear zone. Secured Area

''Washrack''
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130147
Status: Unutilized
Reason: Secured Area

Bldg. V–1005
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130148
Status: Underutilized
Reason: Secured Area

Bldg. V–4064
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200130149
Status: Underutilized
Reason: Secured Area

Georgia

Bldg. 811
Robins AFB
Warner Robins Co: GA 31098–
Landholding Agency: Air Force
Property Number: 18200130017
Status: Unutilized
Reason: Extensive deterioration

Stored Products Insects
R&D Lab
3401 Edwin Street
Savannah Co: Chatham GA 31403–
Landholding Agency: GSA
Property Number: 54200010003
Status: Excess
Reason: Floodway
GSA Number: 4–A–GA–861

Range Rear Light
Blythe Island
Brunswick Co: Glynn GA 31525–
Landholding Agency: GSA
Property Number: 54200020001
Status: Excess
Reason: Extensive deterioration
GSA Number: 4–U–GA–863

Idaho

Moore Hall U.S. Army Rsve Ctr
1575 N. Skyline Dr.
Idaho Falls Co: Bonneville ID 83401–
Landholding Agency: GSA
Property Number: 21199720207
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–D–ID–544

Rexburg Army Reserve Center
379 S. 2nd St. East
Rexburg Co: Madison ID 83440–
Landholding Agency: GSA
Property Number: 54200110001
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–D–ID–546

Illinois

Navy Family Housing
18-units
Hanna City Co: Peoria IL 61536–
Landholding Agency: GSA
Property Number: 54199940018
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–IL–723

Kansas

Sunflower AAP
DeSoto Co: Johnson KS 66018–
Landholding Agency: GSA
Property Number: 54199830010
Status: Excess
Reason: Extensive deterioration
GSA Number: 7–D–KS–0581

Michigan

Parcel 14, Boat House
East Tawas Co: Iosco MI
Landholding Agency: GSA
Property Number: 54199730014
Status: Excess
Reason: Extensive deterioration
GSA Number: 1–U–MI–500

Round Island Passage Light
Lake Huron
Lake Huron Co: Mackinac MI
Landholding Agency: GSA
Property Number: 54199730019
Status: Excess
Reason: Inaccessible
GSA Number: 1–U–MI–444B

Tracts 100–2, 100–3
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: GSA
Property Number: 54199840004
Status: Excess
Reason: No legal access
GSA Number: 1–D–MI–659A

Navy Housing
64 Barberry Drive
Springfield Co: Calhoun MI 49015–
Landholding Agency: GSA
Property Number: 54200020013
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–MI–795

Stroh Army Reserve Center
17825 Sherwood Ave.
Detroit Co: Wayne MI 00000–
Landholding Agency: GSA
Property Number: 54200040001
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–D–MI–798

Minnesota

Naval Ind. Rsv Ordnance Plant
Minneapolis Co: MN 55421–1498
Landholding Agency: GSA
Property Number: 54199930004
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–MN–570

Nike Battery Site, MS–40
Castle Rock Township
Farmington Co: Dakota MN 00000–
Landholding Agency: GSA
Property Number: 54200020004
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–I–451–B

Nevada

Former Weather Service Office
Winnemucca Airport
Winnemucca Co: Humbolt NV 89445–
Landholding Agency: GSA
Property Number: 54199810001
Status: Excess
Reason: Within airport runway clear zone
GSA Number: 9–C–NV–509

6 Bldgs.
Dale Street Complex
300, 400, 500, 600, Block Bldg, Valve House
Boulder City Co: NV 89005–
Landholding Agency: GSA
Property Number: 54200020017
Status: Excess
Reason: Extensive deterioration
GSA Number: LC–00–01–RP

New Jersey

Telephone Repeater Site
U.S. Coast Guard
Monmouth Beach Co: Monmouth Beach NJ 07750–
Landholding Agency: GSA
Property Number: 54199910001
Status: Excess
Reason: Extensive deterioration
GSA Number: 1–U–NJ–628

30 Bldgs.
Camp Charles Wood
Ft. Monmouth Co: Eatontown NJ
Landholding Agency: GSA
Property Number: 5420020008
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–D–NJ–470f

New York

2 Offshore Lighthouses
Great Lakes NY
Landholding Agency: GSA
Property Number: 54199630015
Status: Excess
Reason: Extensive deterioration

Turkey Point Light
Saugerties Co: Ulster NY
Landholding Agency: GSA
Property Number: 54200120014
Status: Excess
Reason: Floodway
GSA Number: 1–U–NY–880

Ohio

Toledo Harbor Lighthouse
Lake Erie
Toledo Co: Lucas OH 43611–
Landholding Agency: GSA
Property Number: 54199710014
Status: Excess
Reason: Inaccessible
GSA Number: 1–U–OH–801

Tennessee

22 Bldgs.
Volunteer Army Ammunition Plant
Warehouses (Southern Portion)
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930016
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–D–TN–594F

17 Bldgs.
Volunteer Army Ammunition Plant
Acid Production
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930017
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material contamination
GSA Number; 4–D–TN–594F

41 Facilities
Volunteer Army Ammunition Plant
TNT Production
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930018
Status: Surplus
Reason: contamination
GSA Number: 4–D–TN–594F

Tennessee

5 Facilities
Volunteer Army Ammunition Plant
Waste Water Treatment
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930019
Reason: Extensive deterioration
GSA Number: 4–D–TN–594A

6 Bldgs.
Volunteer Army Ammunition Plant
Offices (Southern Portion)
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930023
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–D–TN–594F

Army Reserve Center #2
360 Ornamental Metal Museum Dr.
Memphis Co: Shelby TN 38106–
Landholding Agency: GSA
Property Number: 54200120004
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration
GSA Number: 4–D–TN–0650

Texas

Station Port Mansfield
Port Mansfield Co: Willary TX 78598–
Landholding Agency: GSA
Property Number: 54199930008
Status: Surplus
Reason: Floodway
GSA Number: 7–U–TX–1057

Virginia

Bldg. A137
Naval Amphibious Base
Norfolk Co: VA 23521–3229
Landholding Agency: Navy
Property Number: 77200130111
Status: Excess
Reason: Extensive deterioration

Bldg. 3034
Naval Amphibious Base
Norfolk Co: VA 23521–3229
Landholding Agency: Navy
Property Number; 77200130112
Status: Excess
Reason: Extensive deterioration

Bldg. SP–228
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200130113
Status: Excess
Reason: Extensive deterioration

Bldgs. 24143, 24142
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200130114
Status: Excess
Reason: Extensive deterioration

Bldgs. 55, 3233
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200130115
Status: Excess
Reason: Extensive deterioration

Bldg. B260
Naval Surface Warfare Center
Dahlgren Co: King George, VA 22448–5100
Landholding Agency: Navy
Property Number: 77200130116
Status: Unitilized
Reason: Extensive deterioration

Bldg. B452

Naval Surface Warfare Center
Dahlgren Co: King George, VA 22448–
Landholding Agency: Navy
Property Number: 77200130117
Status: Unitilized
Reason: Extensive deterioration

Bldg. B1361
Naval Surface Warfare Center
Dahlgren Co: King George, VA 22448–
Landholding Agency: Navy
Property Number: 77200130118
Status: Unitilized
Reason: Extensive deterioration

Bldg. B1360
Naval Surface Warfare Center
Dahlgren Co: King George, VA 22448–
Landholding Agency: Navy
Property Number: 77200130119
Status: Unitilized
Reason: Extensive deterioration

Bldg. B1362
Naval Surface Warfare Center
Dahlgren Co: King George, VA 22448–
Landholding Agency: Navy
Property Number: 77200130120
Status: Unitilized
Reason: Extensive deterioration

Bldg. B9409
Naval Surface Warfare Center
Dahlgren Co: King George, VA 22448–
Landholding Agency: Navy
Property Number: 77200130121
Status: Unitilized
Reason: Extensive deterioration

Bldg. B9412
Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130122
Status: Unutilized
Reason: Extensive deterioration

Bldg. B9436
Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–5100
Landholding Agency: Navy
Property Number: 77200130123
Status: Unutilized
Reason: Extensive deterioration

Bldg. B9445
Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–5100
Landholding Agency: Navy
Property Number: 77200130124
Status: Unutilized
Reason: Extensive deterioration

Bldg. B9446
Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130125
Status: Unutilized
Reason: Extensive deterioration

Bldg. B9461
Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130126
Status: Unutilized
Reason: Extensive deterioration

Bldg. B9462
Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130127
Status: Unutilized
Reason: Extensive deterioration

Bldg. LF–38
Naval Station

Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200130131
Status: Excess
Reason: Extensive deterioration

Bldgs. NM35, NM36, NM47
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200130132
Status: Excess
Reason: Extensive deterioration

Bldg. U–41
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200130133
Status: Excess
Reason: Extensive deterioration

Bldg. SP–67
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200130134
Status: Excess
Reason: Extensive deterioration

Bldg. SP–70
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200130135
Status: Excess
Reason: Extensive deterioration

Bldg. SP–71
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200130136
Status: Excess
Reason: Extensive deterioration

Bldg. LP–159
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200130137
Status: Excess
Reason: Extensive deterioration

Land (by State)

Alaska

2.3 acre site
Dillingham Small Boat Harbor
Dillingham Co: AK
Landholding Agency: GSA
Property Number: 54200110010
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–D–AK–757

Connecticut

FAA Direction Finder
11 Quarry Rd.
Killingly Co: CT 06241–
Landholding Agency: GSA
Property Number: 54200110008
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–U–CT–544

District of Columbia

Square 62
2216 C St., NW
Washington Co: DC 20037–
Landholding Agency: GSA
Property Number: 54200040004
Status: Excess
Reason: contamination
GSA Number: 4–G–DC–0478

Florida

(P) Ponce de Leon Inlet
2999 N. Peninsula Ave.
New Smyrna Beach Co: Volusia FL 32169–
Landholding Agency: GSA
Property Number: 54199940015
Status: Excess
Reason: Floodway
GSA Number: 4–U–FL–1170

Kentucky

9 Tracts
Daniel Boone National Forest
Co: Owsley KY 37902–
Landholding Agency: GSA
Property Number: 54199620012
Status: Excess
Reason: Floodway
GSA Number: 4–G–KY–607

Massachusetts

USCG Loran Station
Siasconset Co: Nantucket MA 20564–0880
Landholding Agency: GSA
Property Number 54200040008
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–U–MA–858

Michigan

Port/EPA Large Lakes Rsch Lab
Grosse Ile Twp Co: Wayne MI
Landholding Agency: GSA
Property Number 54199720022
Status: Excess
Reason: Within airport runway clear zone
GSA Number: 1–Z–MI–554–A

Ohio

Lewis Research Center
Cedar Point Road
Cleveland Co: Cuyahoga OH 44135—
Landholding Agency: GSA
Property Number 54199610007
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material. Within airport runway clear zone
GSA Number: 2–Z–OH–598–I

Pennsylvania

Novak Estate Land
off the Parkway West
Moon Township Co: Allegheny PA 15222—
Landholding Agency: GSA
Property Number 54200010006
Status: Excess
Reason: inaccessible
GSA Number: 4–G–PA–787

[FR Doc. 01–24007 Filed 9–27–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

National Park Service

AGENCY: National Park Service, Interior.

ACTION: Notice of implementation of the Glacier Bay National Park and Preserve Commercial Fisheries Compensation Plan.

SUMMARY: In accordance with Section 123 of the Omnibus Consolidated and Emergency Appropriations Act of FY 1999, as amended, the National Park Service is implementing the Glacier Bay National Park Commercial Fisheries Compensation Plan.

Applications for compensation under this plan are being accepted for a 120-day period beginning on September 28, 2001 and ending on January 28, 2002. Application instruction packets are available at: Glacier Bay National Park and Preserve, Juneau Field Office, 2770 Sherwood Lane, Suite I, Juneau, AK 99801–8545, Phone 907–586–7027, FAX 907–586–7097.

This Compensation Plan will involve information collection from ten or more parties. A federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Therefore, under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and RecordKeeping Requirements, The National Park Service requested an emergency approval of the information collection requirements of this Compensation Plan. The Office of Management and Budget has approved the request under OMB control number 1024–0240, with an expiration date of February 28, 2002.

Information will be collected from respondents by mail using the process described in the Glacier Bay Commercial Fishing Compensation Plan Part V and will be sent to the Glacier Bay Office of Commercial Fishing Compensation to be used by the park superintendent to establish eligibility to obtain compensation for the inability to fish in the waters of Glacier Bay National Park. NPS anticipates that there will be a total of approximately six hundred respondents per year with an estimated total annual reporting and record-keeping burden of 2400 hours. A response to the information collection portion of this plan is required to obtain compensation in accordance with Section 123 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act (P.L. 105–277).

FOR FURTHER INFORMATION: Contact Ronald Dick at 907–586–7047.

Dated: August 22, 2001.

Bill Pierce,

Alaska Desk Officer.

[FR Doc. 01–24394 Filed 9–27–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; petition to remove conditions on residence.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 27, 2001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the 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) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Extension of a currently approved collection.*

(2) *Title of the Form/Collection:* Petition to Remove Conditions on Residence.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–751. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Persons granted conditional residence through marriage to a United States citizen or permanent resident use this form to petition for the removal of those conditions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 118,008 at 80 minutes (1.33) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 156,951 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Addionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

In additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20004.

Dated: September 25, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice Immigration and Naturalization Service.

[FR Doc. 01–24353 Filed 9–27–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; H–1B Data Collection and Filing Fee Exemption.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 27, 2001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one of 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 assumption used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* H–1B Data Collection and Filing Fee Exemption.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–129W. Adjudications Division, Immigration Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. This addendum to Form I–129 will be used by the INS to determine if and H–1B petitioner is exempt from the additional filing fee of $500, as provided by the American Competitiveness and Workforce Improvement Act of 1998.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 128,092 responses at 30 minutes. (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 64,046 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW.,

Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, N.W., Suite 1600, Patrick Henry Building, Washington, DC 2004.

Dated: September 24, 2001

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–24354 Filed 9–27–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: employment eligibility verification.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. A notice containing this information collection was previously published in the **Federal Register** on June 7, 2001, at 66 FR 30753. The notice allowed for a 60-day public review and comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 29, 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 regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Employment Eligibility Verification.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–9, Programs Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form was developed to facilitate compliance with Section 274A of the Immigration and Nationality Act (the Act), as amended by the Immigration Reform and Control Act of 1986 (IRCA), which prohibits the knowing employment of unauthorized aliens. The information collected is used by employers or by recruiters for enforcement of provisions of immigration laws that are designed to control the employment of unauthorized aliens.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 78,000,000 respondents at 9 minutes or (.15) hours per response and 20,000,000 record keepers at 4 minutes or (.066) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 13,020,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item (s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: September 24, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–24355 Filed 9–27–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: LIFE Legalization Supplement to Form I–485 Instructions.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in an interim rule INS No. 2115–01 in the **Federal Register** on June 1, 2001 at 66 FR 29661, allowing for a 60-day public review and comment period. No comments were received by the INS on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 29, 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 regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget,

Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725–17th Street, N.W., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the 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) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* LIFE Legalization Supplement to Form I–485 Instructions.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–485 Supplement D. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form may be used by certain class action participants applying for adjustment of status pursuant to Pub. L. 106–553 and 8 CFR 245(a). The information collected on this form, in combination with the data collected on Form I–485, will be used by the Service to determine eligibility for the requested benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 400,000 responses at approximately one (1) hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 400,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, N.W., Patrick Henry Building, Suite 1600, Washington, DC 20004.

Dated: September 24, 2001.

Richard A. Sloan,

Department Clearance Officer, Department of Justice Immigration and Naturalization Services.

[FR Doc. 01–24356 Filed 9–27–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Parole Commission

Record of Vote of Meeting Closure (Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately 11:30 a.m. on Thursday, September 20, 2001, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide two appeals from the National Commissioners' decisions pursuant to 28 CFR Section 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Michael J. Gaines, and John R. Simpson.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: September 20, 2001.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 01–24455 Filed 9–26–01; 11:04 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 24, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documents, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: *King-Derrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Revision of a currently approved collection.

Title: Benefits, Timeliness and Quality (BTQ) Review System.

OMB Number: 1205–0359.

Affected Public: State, Local, or Tribal Government.

Frequency: Monthly.

Type of Response: Reporting.

Number of Respondents: 53.

Number of Annual Responses: 28,912.

Estimated Time Per Respondent: 720.15 hours.

Total Burden Hours: 38,168.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Secretary of Labor has a legal responsibility under the Social Security Act (SSA), Title III, Section 303(a)(1), for reimbursing State Employment Security Agencies the necessary costs of proper and efficient administration of State unemployment insurance (UI) laws. SSA, Title III, Section 303(a)(6) authorizes the Secretary of Labor to require reports to assure the correctness and verification of state reports. The Department of Labor and State Employment Security Agencies use the BTQ Review System to assess and evaluate timeliness and quality of UI benefit operations. The results help to determine operating areas that need Corrective Action Plans to meet achievement standards in State's annual State Quality Service Plan.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. 01–24322 Filed 9–27–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 24, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Stuart Shapiro, OMB Desk Officer MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration (MSHA).

Type of Review: Extension of a currently approved collection.

Title: Training Plan Regulations—30 CFR 48.3 and 48.23.

OMB Number: 1219–0009.

Affected Public: Business or other for-profit.

Type of Response: Recordkeeping and Reporting.

Frequency: On Occasion.

Number of Respondents: 1,294.

Number of Annual Responses: 1,294.

Average Time Per Response: 8 hours.

Annual Burden Hours: 10,352.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $2,588.

Description: 30 CFR 48.3 and 48.23 require coal mine operators to have an MSHA approved training plan containing programs for training new miners; newly-employed miners; miners receiving new tasks; annual refresher training, and hazardous training to ensure that miners will be effectively trained in matters affecting their health and safety, with the ultimate goal being the reduction of the frequency and severity of injuries in the nation's mines.

Agency: Mine Safety and Health Administration (MSHA).

Type of Review: Extension of a currently approved collection.

Title: Application for Waiver of Surface Facilities Requirements.

OMB Number: 1219–0024.

Affected Public: Business or other for-profit.

Type of Response: Reporting.

Frequency: On Occasion.

Number of Respondents: 546.

Number of Annual Responses: 546.

Average Time Per Response: 10 minutes.

Annual Burden Hours: 221.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 30 CFR 71.403, 71.404, 75.1712–4, and 75.1712–5 require coal mine operators to provide bathing facilities, clothing changing rooms, and sanitary flush toilet facilities in a location convenient for the use of the miners. If the operator is unable to meet any or all of the requirements, he/she may apply for a waiver. Applications are filed with the District Manager for the district in which the mine is located.

Agency: Mine Safety and Health Administration (MSHA).

Type of Review: Extension of a currently approved collection.

Title: Representative of Miners.

OMB Number: 1219–0042.

Affected Public: Business or other for-profit.

Type of Response: Recordkeeping; Reporting; and Third-party disclosure.

Frequency: On Occasion.

Number of Respondents: 108.

Number of Annual Responses: 108.

Average Time Per Response: 45 minutes.

Annual Burden Hours: 81.

Total Annualized Capital/Startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Federal Mine Safety and Health Act of 1977 requires the Secretary of Labor to exercise many of her duties under the Act in cooperation with miners' representatives. The Act also establishes miners' rights which must be exercised through a representative. 30 CFR 40.3, 40.4, and 40.5 contain procedures which a person or organization must follow in order to be identified by the Secretary as a representative of miners.

Agency: Mine Safety and Health Administration (MSHA).

Type of Review: Extension of a currently approved collection.

Title: Escape and Evacuation Plans.

OMB Number: 1219–0046.

Affected Public: Business or other for-profit.

Type of Response: Recordkeeping; Reporting; and Third-party disclosure.

Frequency: On occasion.
Number of Respondents: 284.
Number of Annual Responses: 568.
Average Time Per Response: 8 hours.
Annual Burden Hours: 4,544.
Total Annualized Capital/Startup costs: $0.
Total Annual Costs (operating/maintaining systems or purchasing services): $1,704.
Description: 30 CFR 57.11053 requires underground Metal and Nonmetal mine operators to develop an escape and evacuation plan addressing the unique conditions of the mine. Plans are required to be reviewed every six months and revisions submitted to MSHA as necessary.

Agency: Mine Safety and Health Administration (MSHA).
Type of Review: Extension of a currently approved collection.
Title: Certificate of Training—30 CFR 48.9 and 48.29.
OMB Number: 1219–0070.
Affected Public: Business or other for-profit.
Type of Response: Recordkeeping.
Frequency: Annually.
Number of Respondents: 3,730.
Number of Annual Responses: 105,050.
Average Time Per Response: 5 minutes.
Annual Burden Hours: 8,393.
Total Annualized Capital/Startup costs: $0.
Total Annual Costs (operating/maintaining systems or purchasing services): $210,074.
Description: The MSHA Form 5000–23, Certificate of Training, is required by 30 CFR part 48.9 and 48.29 and is used by mine operators to record mandatory training received by miners. The form provides the mine operator with a recordkeeping form, the miner with a certificate of training, and MSHA with a monitoring tool for determining mine operator compliance.

Darrin A. King,
Acting Departmental Clearance Officer.
[FR Doc. 01–24323 Filed 9–27–01; 8:45 am]
BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA010001 (Mar. 2, 2001)
MA010002 (Mar. 2, 2001)
MA010003 (Mar. 2, 2001)
MA010006 (Mar. 2, 2001)
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MA010017 (Mar. 2, 2001)
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Nebraska
NE010001 (Mar. 2, 2001)
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CA010038 (Mar. 2, 2001)
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CA010040 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, Extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which include all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 20th day of September 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–24027 Filed 9–27–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and other federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This

program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the extension without change of the information collection request (ICR) included in the suspension of pension benefits regulation issued pursuant to the authority of section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (ERISA), which governs the circumstances under which pension plans may suspend pension benefit payments to retirees who return to work, or of participants who continue to work beyond normal retirement age (29 CFR 2530.203–3). A copy of the ICR may be obtained by contacting the office listed in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before November 27, 2001.

ADDRESSES: Interested parties are invited to submit written comments regarding the collection of information. Send comments to Mr. Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782 Fax: (202) 219–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Section 203(a)(3)(B) of ERISA governs the circumstances under which pension plans may suspend pension benefit payments to retirees that return to work or to participants that continue to work beyond normal retirement age. Furthermore, section 203(a)(3)(B) of ERISA authorizes the Secretary to prescribe regulations necessary to carry out the provisions of this section.

In this regard, the Department issued a regulation which describes the circumstances and conditions under which plans may suspend the pension benefits of retirees that return to work, or of participants that continue to work beyond normal retirement age (29 CFR § 2530.203–3). In order for a plan to suspend benefits pursuant to the regulation, it must notify affected retirees or participants (by first class mail or personal delivery) during the first calendar month or payroll period in which the plan withholds payment, that benefits are suspended. This notice must include the specific reasons for such suspension, a general description of the plan provisions authorizing the suspension, a copy of the relevant plan provisions, and a statement indicating where the applicable regulations may be found, (i.e., 29 CFR § 2530.203–3). In addition, the suspension notification must inform the retiree or participant of the plan's procedure for affording a review of the suspension of benefits.

II. Desired Focus of Comments

The Department of Labor is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. Current Actions

The Office of Management and Budget's approval of this ICR will expire on November 30, 2001. This notice requests comments on the extension of the ICR. The Department is not proposing or implementing changes to the existing ICR at this time in connection with this extension. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: Suspension of Benefits Regulation pursuant to 29 CFR 2530.203–3.

Type of Review: Extension of a currently approved collection.

OMB Number: 1210–0048.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Total Respondents: 74,872.

Total Responses: 74,872.

Frequency of Response: On occasion.

Total Annual Burden: 18,718.

Total Burden Cost (Operating and Maintenance): $63,000.

Dated: September 25, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01–24321 Filed 9–27–01; 8:45 am]

BILLING CODE 4510–29–P

PENSION AND WELFARE BENEFITS ADMINISTRATION

[Application Number D–11034]

Proposed Amendment to Prohibited Transaction Exemption 80–26 (PTE 80–26) for Certain Interest Free Loans to Employee Benefit Plans

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Notice of proposed amendment to PTE 80–26.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed amendment to PTE 80–26. PTE 80–26 is a class exemption that permits parties in interest with respect to employee benefit plans to make interest free loans to such plans, provided the conditions of the exemption are met. The proposed amendment, if adopted, would affect all employee benefit plans, the participants and beneficiaries of such plans, and parties in interest with respect to those plans engaging in the described transactions.

DATES: If adopted, the proposed amendment would be effective from September 11, 2001 until January 9, 2002. Written comments and requests for a public hearing should be received by the Department on or before November 13, 2001.

ADDRESSES: All written comments and requests for a public hearing (preferably three copies) should be addressed to the U.S. Department of Labor, Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, 200 Constitution Avenue, NW, Washington, DC 20210, (Attention: PTE 80–26 Amendment).

FOR FURTHER INFORMATION CONTACT: Mr. Christopher J. Motta, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8881. (This is not a toll-free number); or

Charles Jackson, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 693–5600. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed amendment to PTE 80–26 (45 FR 28545, April 29, 1980, as amended at 65 FR 17540, April 3, 2000).[1] PTE 80–26 provides an exemption from the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code), by reason of section 4975(c)(1)(B) and (D) of the Code.

The Department is proposing the amendment on its own motion pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[2]

A. General Background

The prohibited transaction provisions of the Act generally prohibit transactions between a plan and a party in interest (including a fiduciary) with respect to such plan. Specifically, section 406(a)(1)(B) and (D) of the Act states that a fiduciary with respect to a plan shall not cause the plan to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(B) Lending of money or other extension of credit between the plan and a party in interest; or

(D) Transfer to, or use by or for the benefit of, a party in interest of any assets of the plan.

Accordingly, unless a statutory or administrative exemption is applicable, loans, including interest free loans, to a plan from a party in interest and the repayment of such loans may be prohibited.

In addition, section 406(b)(2) of the Act provides that a fiduciary with respect to a plan shall not, in his individual or any other capacity, act in a transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

B. Description of Existing Relief

Section I of PTE 80–26 permits the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, and the repayment of such loan or other extension of credit in accordance with its terms or other written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only—

(1) for the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan and periodic premiums under an insurance or annuity contract, or

(2) for a period of no more than three days, for a purpose incidental to the ordinary operation of the plan;

(c) The loan or extension of credit is unsecured; and

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan.

On April 3, 2000, PTE 80–26 was amended through the addition of sections II and III to that exemption (65 FR 17540). Section II of PTE 80–26 allowed, from November 1, 1999 through December 31, 2000, the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, and the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof; provided that, among other requirements, the proceeds of the loan or extension of credit are used only for a purpose incidental to the ordinary operation of the plan which arises in connection with the inability of the plan to liquidate, or otherwise access its assets or access data, as a result of a ''Y2K problem''. Section III of PTE 80–26, as amended, provides a definition of the term ''Y2K problem''.

C. Discussion of the Proposed Exemption

The Department, on its own motion, proposes to amend PTE 80–26 in order to expand its interest free loan exemption to address potential liquidity problems faced by many employee benefit plans due to the tragic events that occurred on September 11, 2001. In this regard, as a result of the terrorist attacks on the World Trade Center and the Pentagon, all major stock markets in the United States were closed from September 11, 2001 to September 14, 2001. Among other things, the shutdown prevented the buying, selling and/or trading of securities on these markets.

The terrorist incidents of September 11, 2001 have led to temporary disruptions in the financial and securities markets that may have an impact on employee benefit plans. Temporary impairments to communication systems, pricing and valuation operations, and marketplace liquidity, could interfere with the operation of employee benefit plans.[3]

The Department notes that, following the September 11, 2001 incidents, telephone communications systems in lower Manhattan experienced partial or total interruptions that could prevent, for example, the immediate transmission of valuation information necessary to effectuate a participant's withdrawal request from a plan investment option. In such instance, a party in interest could provide a liquidity loan to a plan to facilitate the prompt execution of a participant's investment instructions.

In addition, satisfaction of plan participant withdrawal instructions occurring shortly after September 11, 2001, may require the plan fiduciary to liquidate portfolio assets during a period of fluctuating market conditions. In such instance, the proposed amendment would provide added flexibility in satisfying participant withdrawal requests.

Lastly, the Department notes that the September 11, 2001 incidents may have rendered certain asset valuation systems temporarily inoperable. The resulting delays with respect to the availability of certain portfolio valuations also may have affected the ability of plans to promptly satisfy participant investment instructions.

As a result, the Department has determined to amend PTE 80–26 to expand its provisions for interest free loans to employee benefit plans. Accordingly, beginning September 11, 2001 and ending January 9, 2002, the proposed amendment to PTE 80–26 would permit certain interest free loans with repayment periods of up to 120

[1] A minor correction was made to the title of the final exemption in a notice published in the **Federal Register** on May 23, 1980. (45 FR 35040).

[2] Section 102 of the Reorganization Plan No. 4 of 1978 (5 U.S.C. App. 1 [1996] generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975 of the Code to the Secretary of Labor.

[3] In this regard, the Department recognized in a release dated September 14, 2001 (Release No. 01–36) that plan fiduciaries may encounter an array of problems with respect to the investment of employee benefit plan assets upon the reopening of the securities markets. Under these circumstances, plan fiduciaries may in good faith find it necessary and prudent to take extraordinary steps in order to safeguard plan assets and to facilitate the return to orderly markets. The Department further stated that, in taking these steps, plan fiduciaries should be sensitive to ensuring that the temporary procedures adopted, and the decisions made, are documented and adequately protect the interests of plans and their participants and beneficiaries.

days to address plan liquidity needs arising in connection with the September 11, 2001 attacks on the World Trade Center and the Pentagon.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary, or other party in interest or disqualified person with respect to a plan, from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under section 406(b)(1) and (3) of the Act or section 4975(c)(1)(E) or (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of ERISA and 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(4) If granted, the proposed amendment is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(5) The proposed amendment, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Request

The Department invites all interested persons to submit written comments or requests for a public hearing on the proposed amendment to the address and within the time period set forth above. All comments received will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection at the above address.

Proposed Amendment

Under section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR 2570, Subpart B (55 FR 32836, 32847, August 10, 1990), the Department proposes to amend PTE 80–26 as set forth below:

Section I. General Exemption

Effective January 1, 1975, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, nor to the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only—

(1) for the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan and periodic premiums under an insurance or annuity contract, or

(2) for a period of no more than three business days, for a purpose incidental to the ordinary operation of the plan;

(c) The loan or extension of credit is unsecured; and

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan.

Section II: Temporary Exemption

Effective November 1, 1999 through December 31, 2000, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, nor to the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only for a purpose incidental to the ordinary operation of the plan which arises in connection with the plan's inability to liquidate, or otherwise access its assets or access data as a result of a Y2K problem.

(c) The loan or extension of credit is unsecured;

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan; and

(e) The loan or extension of credit begins on or after November 1, 1999 and is repaid or terminated no later than December 31, 2000.

Section III. September 11, 2001 Market Disruption Exemption

Effective September 11, 2001 through January 9, 2002, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, nor to the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only for a purpose incidental to the ordinary operation of the plan which arises in connection with difficulties encountered by the plan in liquidating, or otherwise accessing its assets, or accessing its data in a timely manner as a direct or indirect result of the September 11, 2001 disruption;

(c) The loan or extension of credit is unsecured;

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan; and

(e) The loan or extension of credit begins on or after September 11, 2001, and is repaid or terminated no later than January 9, 2002.

Section IV: Definitions

(a) For purposes of section II, a Y2K problem is a disruption of computer operations resulting from a computer system's inability to process data because such system recognizes years

only by the last two digits, causing a ''00'' entry to be read as the year ''1900'' rather than the year ''2000''.

(b) For purposes of Section III, the September 11, 2001 disruption is the disruption to the United States financial and securities markets and/or the operation of persons providing administrative services to employee benefit plans, resulting from the acts of terrorism that occurred on September 11, 2001.

Signed at Washington, DC, this 25st day of September, 2001.

Ivan L. Strasfeld,

Director, Office of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 01–24395 Filed 9–27–01; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:*

NUREG/BR–0238, Materials Annual Fee Billing Handbook

NUREG/BR–0239, Financial EDI Authorization (NRC Form 628, ''Financial EDI Authorization'')

NUREG/BR–0253, Electronic Funds Transfer—Fact Sheet

NUREG/BR–0254, Payment Methods (NRC Form 629, ''Authorization for Payment by Credit Card'')

2. *Current OMB approval number:* 3150–0190.

3. *How often the collection is required:* Annually.

4. *Who is required or asked to report:* Anyone doing business with the Nuclear Regulatory Commission, including licensees, applicants, and individuals who are required to pay a fee for inspections and licenses.

5. *The number of annual respondents:* 530 (50 for the NRC Form 628 and 480 for NRC Form 629).

6. *The number of hours needed annually to complete the requirement or request:* 42 (4 hours for NRC Form 628 and 38 hours for NRC Form 629).

7. *Abstract:* The U.S. Department of the Treasury encourages the public to pay monies owed the government through use of the Automated Clearinghouse Network and credit card. These two methods of payment are used by licensees, applicants, and individuals to pay civil penalties, full cost licensing fees, and inspection fees to the NRC.

Submit, by November 27, 2001, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 24th day of September 2001.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–24340 Filed 9–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA–01–022]

In the Matter of Mr. Virgil J. Hood, Jr.; Demand for Information

I

Mr. Virgil J. Hood, Jr. was the Vice President of Moisture Protection Systems Analysts, Inc. (MPSA or the Licensee) formerly located at 1350 Beverly Road, Suite 223, McLean, Virginia 22101. The Licensee was the holder of Byproduct Materials License No. 45–24851–02 (the license), which was issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30 on June 19, 1986 and renewed on January 30, 1992. The license authorized MPSA to possess byproduct material, i.e., a Seaman Nuclear Corporation Model R–50 portable roofing gauge containing a nominal 40 millicuries (mCi) of Americium-241, for use in measuring moisture density of roof surfaces in accordance with the conditions specified in the license. On April 20, 1998, the Licensee's license was revoked.

II

Between December 31, 1997, and January 31, 2001, the NRC Office of Investigations (OI) conducted an investigation to determine the location of a moisture density gauge containing licensed material after the Licensee failed to pay the NRC annual license fee for fiscal year 1996, and had vacated the premises listed on its license without prior notice to the NRC. These actions by the Licensee had resulted in the NRC issuing an Order Suspending License (Effective Immediately) (Order Suspending License) to MPSA on May 15, 1997. The Order Suspending License imposed certain requirements upon the Licensee and required a response from the Licensee. Subsequently, after the Licensee failed to submit the required answer to the Order Suspending License, a Notice of Violation and Proposed Imposition of Civil Penalty—$5,500, and Order Modifying Order Suspending License (Effective Immediately) and Order Revoking License (Order Revoking License) were issued to MPSA revoking its license on April 20, 1998. The Order Revoking License required that the Licensee maintain licensed material in safe storage, immediately notify the NRC of its current business location and status of licensed material, test the gauge for leak tightness, and transfer all licensed material to an authorized recipient

within 30 days of the Order Revoking License. To date, the Licensee has failed to respond to the Order Revoking License. On May 5, 2000, the NRC was notified that a portable moisture density gauge containing licensed material had been received at a landfill. The gauge was a Seaman Nuclear Corporation Model No. R–50 portable moisture density gauge, and was labeled as belonging to MPSA.

The OI investigation determined that the Licensee deliberately refused to allow NRC inspection of the licensed material or of required records, as required by 10 CFR 30.52; failed to control licensed material, as required by 10 CFR 20.1801 and 10 CFR 20.1802; and deliberately failed to notify the NRC of a missing or stolen source as required by 10 CFR 20.2201(a)(1)(i). It further concluded that the Licensee's Vice President, Mr. Hood, failed to control licensed material not in storage and deliberately failed to notify the NRC of a missing or stolen source. In addition, information developed during the investigation indicated that, although not named as an authorized user on the license, Mr. Hood used the moisture density gauge containing licensed material. Consequently, it was reasonable for the NRC to expect Mr. Hood to respond to questions concerning the Licensee's activities. During the investigation, numerous attempts were made to contact Mr. Hood in order to determine his responsibilities under the license and his responsibilities with regard to the identified violations. In this regard, the NRC issued a subpoena for Mr. Hood to appear at a compelled interview on September 16, 1998; requested an interview with Mr. Hood on September 22, 1998; subpoenaed Mr. Hood on November 4, 1999, to attend a compelled interview on December 3, 1999; and, by letter dated March 23, 2001, requested Mr. Hood to respond to the apparent violations in writing or to attend a predecisional enforcement conference to discuss the apparent violations identified during the investigation. Mr. Hood failed to respond to the subpoenas or to appear at the interviews, and did not respond to the letter dated March 23, 2001.

This situation demonstrates a lack of regard for, and adherence to, NRC requirements and raises serious questions as to whether Mr. Hood will in the future adhere to NRC requirements.

Therefore, further information is needed to determine whether the Commission can have reasonable assurance that in the future Mr. Hood will conduct licensed activities in accordance with the Commission's requirements.

III

Accordingly, pursuant to sections 161b, 161c, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204, the Commission requests that Mr. Hood submit the following information:

1. A description of your responsibilities as Vice President of MPSA with regard to NRC licensed activities.
2. An explanation as to whether or not you were an authorized user of the gauge.
3. An explanation as to why you did not heed the subpoenas issued for compelled interviews on September 16, 1998, and December 3, 2000, or respond to the letter dated March 23, 2001, offering you an opportunity to respond to the apparent violation and to request a predecisional enforcement conference.
4. A statement that demonstrates your commitment to compliance with regulatory requirements and sets forth the basis for why the Commission should have confidence that you will comply with applicable NRC requirements in the future.

You may provide any other information that you want the NRC to consider, including a statement as to whether you believe that the statements made in Section II are accurate. You may respond to this Demand for Information by filing a written answer under oath or affirmation or by setting forth your reasons why this Demand for Information should not have been issued if the requested information is not being provided. The response to this Demand for Information is to be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, in writing and under oath or affirmation. Copies also shall be sent to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region II, 61 Forsyth St. SW, Suite 23T85, Atlanta, GA 30303–8931. The response should be sent 30 days from the date of this Demand for Information if your current employment is involved in NRC-licensed activities or within 20 days of acceptance of an employment offer involving NRC-licensed activities or your becoming involved in NRC-licensed activities for five years from the date of this Demand for Information. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

Upon review of your answer the Commission may institute a proceeding pursuant to 10 CFR 2.202 or take such other action as may be necessary to ensure compliance with regulatory requirements. Your response to the Demand for Information will be considered before a decision is made in this matter.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/NRC/ADAMS/index.html* (the Public Electronic Reading Room). Therefore, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you *must* specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 12th day of September 2001.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Deputy Executive Director for Materials, Research and State Programs.

[FR Doc. 01–24335 File 9–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 71–0122, Approval No. 0122 EA–01–164]

In the Matter of J.L. Shepherd & Associates, San Fernando, California; Confirmatory Order Relaxing Order; Effective Immediately

I

J.L. Shepherd & Associates (JLS&A or Approval Holder) was the holder of Quality Assurance (QA) Program Approval for Radioactive Material Packages No. 0122 (Approval No. 0122), issued by the U. S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 71, subpart H. The approval was previously issued pursuant to the QA requirements of 10 CFR 71.101. QA activities authorized by Approval No. 0122 include: design, procurement, fabrication, assembly, testing, modification, maintenance, repair, and use of transportation packages subject to the provisions of 10 CFR part 71. Approval No. 0122 was originally issued January 17, 1980. Revision No. 5 was issued January 24, 1996, with an expiration date on January 31, 2001, and is under timely renewal. In addition to having a QA program approved by the NRC to satisfy the provisions of 10 CFR part 71, subpart H, to transport or deliver for transport licensed material in a package, JLS&A is required by 10 CFR part 71, subpart C, to have and comply with the package's Certificate of Compliance (CoC) issued by the NRC. Based on JLS&A failure to comply with 10 CFR part 71, QA Program Approval No. 0122 was withdrawn, by the immediately effective NRC Order dated July 3, 2001.

II

NRC staff conducted an inspection on May 29–31, 2001, at JLS&A's facility. The inspection identified significant concerns with the implementation of the JLS&A QA program regarding the design, use, repair, and maintenance of transportation packages approved for use by NRC under CoC No. 6280. Specifically, NRC found that JLS&A failed to implement portions of the QA Program Approval No. 0122 which resulted in JLS&A delivering for export radioactive material in a transportation package that did not comply with the requirements of 10 CFR part 71. As a result of the findings during the May 29–31, 2001, inspection the NRC lacked confidence that JLS&A would implement the QA Program approved by NRC in accordance with 10 CFR part 71, subpart H, in a manner that would assure the required preparation and use of transportation packages in full conformance with the terms and conditions of an NRC CoC and with 10 CFR part 71. Consequently, as noted above, in the interest of protecting public health and safety, JLS&A QA Approval No. 0122 was withdrawn by an immediately effective Order issued July 3, 2001, (July 2001 Order).

III

By letter dated August 17, 2001, JLS&A responded to the U.S. Nuclear Regulatory Commission's July 2001 Order. In a response, dated August 16, 2001, JLS&A requested that provisions of the Order be relaxed based on a showing of good cause. Specifically, JLS&A requested interim relief from the July 2001 Order based on JLS&A's proposed Near-Term Corrective Action Plan (NTCAP), to allow 66 shipments to 15 customers, in Department of Transportation specification packaging designated as 20WC. The NRC staff reviewed JLS&A's relief request and identified, in a September 7, 2001, letter, information necessary for the NRC staff to determine whether to grant the requested relief consistent with assurances that public health and safety are maintained.

By letter dated September 13, 2001, JLS&A requested to make two additional shipments to an additional customer also using the 20WC packaging. With respect to the substantive concerns identified by the staff in the July 2001 Order, JLS&A agreed to take the following corrective actions listed below, before it makes any of the proposed 68 shipments to 16 customers in accordance with the proposed NTCAP.

1. a. JLS&A will correct the deficiencies or clarify language, as applicable, in the QA/QC implementing documents, including procedures, for the 1995 JLS&A Quality Assurance Program Plan (QAPP), identified in the Quality Assurance Audit (QA Audit) issued by Donald R. Neely Associates on December 4, 2000, with respect to those items that require full or limited application of the NTCAP as stated in Section 1.2 and Appendix A of the August response;

b. JLS&A will make available to NRC inspectors a document indicating how each deficiency in the QA Audit was corrected;

2. a. JLS&A will use the implementing procedures for the 1995 QAPP, as revised and corrected in accordance with Item 1, to complete an inspection of all 20WC packages involved in the proposed NTCAP. The inspection will confirm that the packages and associated procedures are in conformance with 49 CFR 178.362, ''Specification 20WC wooden protective jacket.'' Each inspection will include, at a minimum, actual physical measurements, and visual inspections for damage, corrosion, or other potentially unacceptable conditions;

b. JLS&A will document the results of each inspection in separate reports approved by the QA Administrator and prepared in accordance with the revised QAPP and implementing procedures. The report will include the list of attributes verified, the acceptance criteria, and the results for each attribute;

3. JLS&A will train all JLS&A's staff, contractors, and sub-contractors, involved in the NTCAP, in the revised QAPP and implementing procedures for NTCAP activities. Training of the QA Administrator will be performed by a QA auditor with the following minimum qualifications; an understanding of the NTCAP, a university degree in a physical science or engineering program or equivalent experience, experience in the review of engineering drawings, scientific technology, nuclear technology, transportation regulations, and at least 5 years experience with International and American national quality assurance standards and quality assurance programs. Training of the JLS&A staff, contractors, and sub-contractors shall be performed by either the QA Auditor or the QA Administrator once trained. The QA Auditor who will perform duties under this paragraph will be Mr. Donald R. Neely;

4. JLS&A will provide certifications under oath and affirmation from both J. L. Shepherd and the independent auditor that the three conditions listed above have been completed;

5. JLS&A commits to implement the actions in the August response;

6. a. JLS&A commits to have an independent auditor, who has full authority, to review and inspect all aspects of JLS&A operations, shipments, and documentation, that the independent auditor believes are necessary, perform monthly performance based and in-depth audits of all ongoing NTCAP items. The independent auditor shall be approved by NRC or have been previously approved by NRC to perform audits at JLS&A. The QA Auditor who will perform duties under this paragraph will be Mr. Donald R. Neely;

b. The audits described in paragraph 6.a. will, at a minimum, be performed using the inspection evaluation guidelines in Chapter 4 of NUREG/CR–6314, ''Quality Assurance Inspections

for Shipping and Storage Containers,'' and will include a combination of procedures and records review and observations of actual packaging activities, as appropriate for the audits performed;

c. The independent QA auditor will document the objective, scope, findings and proposed corrective actions of the audits and will provide copies simultaneously to both JLS&A and NRC. The audit report shall be provided 20 calendar days after the end of each month; and

7. JLS&A commits to hold all shipments until NRC has completed an inspection. At the conclusion of the inspection, NRC will notify JLS&A if shipments can commence.

In addition, on September 13, 2001, JLS&A consented to issuance of this Confirmatory Order granting interim relief from the July 2001 Order subject to the commitments, as described in Section IV below, agreed that this Confirmatory Order is to be effective upon issuance, and agreed to waive its right to a hearing on this action. Implementation of these commitments will provide assurance that sufficient resources will be applied to the QA program, and that the program will be conducted safely and in accordance with NRC requirements.

I find that JLS&A's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that JLS&A's commitments be confirmed by this Confirmatory Order. Based on the above and JLS&A's consent, this Confirmatory Order is effective immediately upon issuance.

IV

Accordingly, pursuant to sections 62, 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 71 and 110, *It Is Hereby Ordered, Effective Immediately, That The* July 3, 2001 *Order Is Relaxed To Grant Interim Relief To Allow* 68 Shipments to 16 Customers 20 WC Packages in Accordance with JLS&A'S NTCAP, Through March 2002, *Provided:*

1. a. JLS&A will correct the deficiencies or clarify language, as applicable, in the QA/QC implementing documents, including procedures, for the 1995 QAPP, identified in the Quality Assurance Audit (QA Audit) issued by Donald R. Neely Associates on December 4, 2000, with respect to those items that require full or limited application of the NTCAP as stated in Section 1.2 and Appendix A of the August response;

b. JLS&A will make available to NRC inspectors a document indicating how each deficiency in the QA Audit was corrected;

2. a. JLS&A will use the implementing procedures for the 1995 QAPP, as revised and corrected in accordance with Item 1, to complete an inspection of all 20WC packages involved in the proposed NTCAP. The inspection will confirm that the packages and associated procedures are in conformance with 49 CFR 178.362, ''Specification 20WC wooden protective jacket.'' Each inspection will include, at a minimum, actual physical measurements, and visual inspections for damage, corrosion, or other potentially unacceptable conditions;

b. JLS&A will document the results of each inspection in separate reports approved by the QA Administrator and prepared in accordance with the revised QAPP and implementing procedures. The report will include the list of attributes verified, the acceptance criteria, and the results for each attribute;

3. JLS&A will train all JLS&A's staff, contractors, and sub-contractors, that will be involved in the NTCAP, in the revised QAPP and implementing procedures for NTCAP activities. Training of the QA Administrator will be performed by a QA auditor with the following minimum qualifications; an understanding of the NTCAP, a university degree in a physical science or engineering program or equivalent experience, experience in the review of engineering drawings, scientific technology, nuclear technology, transportation regulations, and at least 5 years experience with International and American national quality assurance standards and quality assurance programs. Training of the JLS&A staff, contractors, and sub-contractors shall be performed by either the QA Auditor or the QA Administrator once trained. The QA Auditor who will perform duties under this paragraph will be Mr. Donald R. Neely;

4. JLS&A will provide certifications under oath and affirmation from both J. L. Shepherd and the independent auditor that the three conditions listed above have been completed;

5. JLS&A commits to implement the actions in the August response;

6. a. JLS&A commits to have an independent auditor, who has full authority to review and inspect all aspects of JLS&A operations, shipments, and documentation that the independent auditor believes are necessary, perform monthly performance-based and in-depth audits of all ongoing NTCAP items. The independent auditor shall be approved by NRC or have been previously approved by NRC to perform audits at JLS&A. The QA auditor who will perform duties under this paragraph will be Mr. Donald R. Neely;

b. The audits described in paragraph 6.a. will, at a minimum, be performed using the inspection evaluation guidelines in Chapter 4 of NUREG/CR–6314, ''Quality Assurance Inspections for Shipping and Storage Containers,'' and will include a combination of procedures and records review and observations of actual packaging activities, as appropriate for the audits performed;

c. The independent QA auditor will document the objective, scope, findings and proposed corrective actions of the audits and will provide copies simultaneously to both JLS&A and NRC. The audit report shall be provided 20 calendar days after the end of each month; and,

7. JLS&A commits to hold all shipments until NRC has completed an inspection. At the conclusion of the inspection, NRC will notify JLS&A if shipments can commence for the proposed 68 shipments to 16 customers in accordance with the NTCAP.

The Director, Office of Enforcement or Office of Nuclear Material Safety and Safeguards, may in writing, relax or rescind this Confirmatory Order upon demonstration of good cause by the Approval Holder.

V

In accordance with 10 CFR 2.202, any person, other than JLS&A, adversely affected by this Confirmatory Order may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request also should be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Director, Office of Nuclear Material Safety and Safeguards at the same address, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to

the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011, and to the Approval Holder. If such person requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Confirmatory Order without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. A Request for Hearing Shall Not Stay The Immediate Effectiveness of This Confirmatory Order.

Dated this 19th day of September 2001.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

[FR Doc. 01–24338 Filed 9–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499]

STP Nuclear Operating Company, South Texas Project, Units 1 and 2; Notice of Consideration of Approval of Application of Central Power and Light Company Regarding Transfer of Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80, approving the direct transfer of control of the 25.2 percent undivided ownership interest of Central Power and Light Company (CPL) in the South Texas Project Electric Generating Station (STPEGS), Units 1 and 2, under Facility Operating License Nos. NPF–76 and NPF–80, to an as yet unnamed Texas partnership (referred to in the application as CPL Genco LP); and, to the extent a direct transfer would result, CPL's 25.2 percent interest in STP Nuclear Operating Company (STPNOC), the licensed operator of STPEGS under the licenses, to CPL Genco LP. CPL is one of four joint owners of STPEGS under the licenses. CPL Genco LP will be indirectly wholly owned by American Electric Power Company, the parent company of CPL.

The Commission is further considering amending the licenses for administrative purposes to reflect the proposed direct transfer of CPL's interest in STPEGS, including reflecting the company now referred to as CPL Genco LP as the licensee. According to an application for approval filed by STPNOC, acting on behalf of CPL, NRC will be provided with the actual name of the new company before the Commission can issue conforming administrative amendments.

According to the application, following the proposed transfer, CPL Genco LP would possess a 25.2 percent undivided ownership interest in STPEGS under essentially the same conditions and authorizations as included in the existing NRC licenses for STPEGS, including the antitrust conditions, which would be retained. No physical or operational changes to STPEGS are being proposed, and STPNOC would at all times remain the licensed operator of the facility.

Pursuant to 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to be the holder of the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By October 18, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon George L. Edgar, Morgan, Lewis and Bockius, LLP, 1800 M Street, NW, Washington, DC 20036–5869; telephone: 202–467–7459; fax: 202–467–7176; email: gedgar@morganlewis.com; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: dgclt@nrc.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by October 29, 2001, persons may submit written comments regarding the license

transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated June 28, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland this 21st day of September, 2001.

For the Nuclear Regulatory Commission.

Mohan C. Thadani,

Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–24339 Filed 9–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499]

STP Nuclear Operating Company, South Texas Project, Units 1 and 2; Notice of Consideration of Approval of Application of Reliant Energy Incorporated (Formerly Known as Houston Lighting & Power Company Regarding Transfer of Facility Operating Licenses and Conforming Amendments, and Opportunity for a Hearing

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80, approving the indirect transfer of control of the 30.8 percent undivided ownership interest of Reliant Energy, Incorporated (Reliant) [1] in the South Texas Project Electric Generating Station (STPEGS), Units 1 and 2 under Facility Operating License Nos. NPF–76 and NPF–80, to an as yet unnamed new parent holding company (referred to in the application as Regco); and, to the extent an indirect transfer would result, Reliant's 30.8 percent interest in STP Nuclear Operating Company (STPNOC), the licensed operator of STPEGS under the licenses, to Regco. Reliant is one of four joint owners of STPEGS under the licenses.

The Commission is also considering approving the direct transfer of Reliant's 30.8 percent ownership interest in STPEGS to an as yet unnamed new Texas partnership (referred to in the application as Texas Genco LP), which will be indirectly wholly owned by Regco, and, to the extent that a direct transfer of Reliant's interest will result, Reliant's 30.8 percent interest in STPNOC to Texas Genco LP. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed direct transfer of Reliant's interest in STPEGS, including reflecting the company now referred to as Texas Genco LP as the licensee. According to an application for approval filed by STPNOC, acting on behalf of Reliant, NRC will be provided with the actual name of the new company before the Commission can issue conforming administrative amendments. The applicant states that the transfer of Reliant's ownership interests to Texas Genco LP would occur either contemporaneously with Regco becoming the parent holding company of Reliant or some time thereafter.

According to the application, following the proposed transfers, Texas Genco LP would possess a 30.8 percent undivided ownership interest in STPEGS under essentially the same conditions and authorizations as included in the existing NRC licenses for STPEGS, including the antitrust conditions, which would be retained. No physical or operational changes to STPEGS are being proposed, and STPNOC would at all times remain the licensed operator of the facility.

Pursuant to 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the direct transfer of a license, if the Commission determines that the proposed transferee is qualified to be the holder of the license; and an application for indirect transfer, if the Commission determines that the proposed transfer of control will not affect the qualifications of the licensee. With respect to both direct and indirect transfers, the Commission must also determine that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By October 18, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or

[1] Reliant was known as Houston Lighting & Power Company (HL&P). HL&P changed its name to Reliant Energy Incorporated in 1999.

petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon John E. Mathews, Morgan, Lewis and Bakius, LLP; 1800 M Street, NW, Washington DC 20036–5869 (telephone: 202–467–7524; fax: 202–467–7176; email: jmathews@morganlewis.com); the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: dgclt@nrc.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by October 29, 2001, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated May 31, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, http://www.nrc.gov/ADAMS/index.html. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland this 21st day of September, 2001.

For the Nuclear Regulatory Commission.

Mohan C. Thadani,

Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–24341 Filed 9–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–01176]

Consideration of License Amendment Request to University of Wyoming and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of amendment request and opportunity for a hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission is considering issuance of a license amendment to Materials License No. 49–09955–10, issued to the University of Wyoming, to release for unrestricted use two burial sites located near Laramie, Wyoming, as requested in the licensee's revised decommissioning plan dated May 30, 2001.

FOR FURTHER INFORMATION CONTACT: Blair Spitzberg, Chief, Fuel Cycle Decommissioning Branch (FCDB) at (817) 860–8191 or Robert Evans, FCDB at (817) 860–8234.

SUPPLEMENTARY INFORMATION: The University of Wyoming currently possesses radioactive material under a license of broad scope. The licensee uses the material for research and development, academic instruction, and animal studies. On May 30, 2001, the licensee submitted a revised decommissioning plan (DP) to the NRC requesting release of two burial sites previously used by the University of Wyoming during 1952–1985. The licensee was previously authorized to dispose of radioactive material by burial in accordance with 10 CFR 20.304 and 20.302. By 1981, 10 CFR 20.304 had been rescinded by the NRC, so the licensee then conducted burials in accordance with 10 CFR 20.302. During 1985, the NRC rejected the licensee's request to continue to dispose of radioactive material by burial in accordance with 10 CFR 20.302. The licensee now requests that the two burial sites be left in place and the sites released for unrestricted use. The licensee's decision is based on dose modeling calculations conducted using the DandD computer program. The licensee concluded that the annual dose rate for the Quarry burial site is 2.74 millirem per year, and the annual dose rate for the Airport burial site is 22.5 millirem per year. Both dose rates are below the 25 millirem per year dose limit specified in 10 CFR 20.1402. The licensee also claims that remediation of the two sites is not financially viable and is not ALARA (as low as reasonably achievable). As such, the licensee requests NRC approval to release the two sites for unrestricted use with no further decommissioning being conducted.

NRC Approval Process

Prior to approving the DP, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. The University of Wyoming burial sites fall under the Type IV decommissioning facility requirements. The final approval of the DP will be incorporated into the license as a license amendment. The review of the DP shall be supported by the development of an Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and Safety Evaluation Report (SER) by the NRC staff. Facilities under Type IV decommissioning requirements will receive a confirmatory survey and a closeout inspection by the NRC. If the confirmatory survey results indicate that the licensee's evaluation of the radiological status of the site is statistically valid and meets NRC's criteria and NRC has determined that the Final Status Survey demonstrates that the site satisfies NRC requirements, the site is suitable for release from regulatory control. At the time of release of the site or termination of the license, a subsequent **Federal Register** notice will be published to announce the intent of the NRC Staff to release the site for unrestricted use or to terminate the license.

Documents

The revised DP submitted by the University of Wyoming to the NRC is available for public inspection from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at *http://www.nrc.gov/NRC/ADAMS/index.html* (the Public Electronic Reading Room). Assistance with the Public Electronic Reading Room may be obtained by calling (800) 397–4209.

Notice of Opportunity for Hearing

The NRC hereby provides notice that this is a proceeding on an application for amendment of a license falling within the scope of subpart L, ''Informal Hearing Procedures for Adjudications in

Materials and Operator Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by the proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail, telegram or facsimile addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications Staff.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interests may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's area of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d)—that is, filed within 30 days of the date of this notice.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, University of Wyoming, Environmental Health & Safety, 303 Merica Hall, PO Box 3413, Laramie, Wyoming 82071–3413; and

2. The NRC staff, by delivery to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Arlington, Texas, this 20th day of September 2001.

For the Nuclear Regulatory Commission.

D. Blair Spitzberg,

Chief, Fuel Cycle Decommissioning Branch, Division of Nuclear Materials Safety, Region IV.

[FR Doc. 01–24337 Filed 9–27–01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249]

Exelon Generation Company, LLC Dresden Nuclear Power Station, Units 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of 10 CFR 50.55a(g)(6)(ii)(A)(2) for Facility Operating License Nos. DPR–19 and DPR–25, issued to Exelon Generation Company, LLC (Exelon, or the licensee) for operation of the Dresden Nuclear Power Station, Units 2 and 3, located in Grundy County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant a schedular exemption for Dresden Nuclear Power Station (DNPS), Units 2 and 3, from implementation of inservice examinations of the reactor pressure vessel (RPV) vertical welds and the top shell course to vessel flange weld, per American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code Section XI, Table IWB–2500, items B1.12 and B1.30, by the end of the current ten year intervals, as required by 10 CFR 50.55a, ''Codes and standards,'' paragraph (g)(6)(ii)(A)(2). The current intervals end on January 19, 2003, for DNPS Unit 2 and October 31, 2002, for DNPS Unit 3. This schedular exemption requests an extension for the performance of the third interval inspections of these welds until the completion of the D2R18 outage for Unit 2 in October 2003, and until the completion of the D3R18 outage in October 2004 for Unit 3.

The proposed action is in accordance with the licensee's application dated June 12, 2001, as supplemented by letter dated July 23, 2001.

The Need for the Proposed Action

The proposed schedular exemption is needed to prevent an extension of the upcoming refueling outages. 10 CFR 50.55a(g)(6)(ii)(A)(2) requires DNPS to perform an examination of its RPV welds during the current ten-year inspection interval which concludes for each unit during the upcoming refueling outages, D2R17 and D3R17, scheduled for October 2001 and September 2002, respectively. Using conventional equipment, the licensee could fulfill this commitment during the upcoming refueling outages and perform examinations of approximately 60 percent of the RPV welds which is typical for similar BWR plants. However, the licensee has proposed to implement the improved AIRIS 21 system technology which will provide increased RPV weld coverage. The AIRIS 21 system, which requires additional refueling bridge support in order to perform inspections, would add approximately 64 hours of critical time to each refueling outage. In lieu of extending the refueling outages, the licensee has proposed to spread the RPV weld examinations over the next two refueling outages for both DNPS Units 2 and 3. A one-cycle extension would allow optimum coverage without imposing production penalties associated with a refueling outage extension.

10 CFR 50.12 permits the Nuclear Regulatory Commission to grant exemptions which are authorized by law, will not present undue risk to the health and safety of the public, and are consistent with the common defense and security, provided that special circumstances are present. Pursuant to 10 CFR 51.12 (a)(2), the Commission believes that special circumstances exist in that the requested schedular extension is required to prevent extended shutdown of DNPS, Units 2 and 3. Preparations for a refueling outage are proceeding based on a scheduled shutdown in October 2001. An extended outage would present undue hardship and costs due to lost generation. The requested exemption will only provide temporary relief from the applicable regulation and does not jeopardize the health and safety of the public.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no significant adverse environmental impacts associated with the proposed action.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological environmental impacts, the proposed action does not have a potential to affect any historic sites. It

does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Dresden Nuclear Power Station, Units 2 and 3, dated November 1973.

Agencies and Persons Consulted

On July 24, 2001, the staff consulted with the Illinois State official, Frank Niziolek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated June 12, 2001, as supplemented by letter dated July 23, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 10th day of September 2001.

For The Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–24336 Filed 9–27–01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Notice of Availability of Model Application Concerning Technical Specification Improvement To Modify Requirements Regarding Missed Surveillances Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model application relating to the modification of requirements regarding missed surveillances imposed on licensees through technical specifications. The purpose of this model is to permit the NRC to efficiently process amendments that propose to modify requirements for missed surveillances as generically approved by this notice. Licensees of nuclear power reactors to which the model applies could request amendments utilizing the model application.

DATES: The NRC staff issued a **Federal Register** Notice (66 FR 32400, June 14, 2001) which provided a Model Safety Evaluation relating to modification of requirements regarding missed surveillances [1] similarly, the NRC staff, herein provides a Model Application. The NRC staff can most efficiently consider applications based upon the Model Application, which reference the Model Safety Evaluation, if the application is submitted within a year of this **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: Robert Dennig, Mail Stop: O–12H4, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1161.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors,'' was issued on March 20, 2000. The consolidated line item improvement process (CLIIP) is intended to improve the efficiency of NRC licensing processes. This is accomplished by processing proposed changes to the standard technical specifications (STS) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or to proceed with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to technical specifications are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable rules and NRC procedures.

This notice involves the modification of requirements regarding missed surveillances in technical specifications. This change was proposed for incorporation into the standard technical specifications by all Owners Groups participants in the Technical Specification Task Force (TSTF) and is designated TSTF–358 Revision 5. The change referenced in the **Federal Register** Notice (FRN) 66FR32400, of June 14, 2001, is TSTF–358 Revision 5 with some modifications that are identified in the FRN. The modified TSTF–358 Revision 5 is further revised by the response to the public comments, as noted in the responses. The TSTF–358 Revision 5 as submitted, and as revised by both the FRN and the public comments (''fully modified TSTF–358 Revision 5''), can both be viewed on the NRC's web page at *http://www.nrc.gov/NRR/sts/sts.htm.*

Applicability

This proposed change to modify technical specification requirements for missed surveillances is applicable to all licensees who currently have or who will adopt, in conjunction with the

[1] [In conjunction with the proposed change, technical specifications (TS) requirements for a Bases Control Program, consistent with the TS Bases Control Program described in Section 5.5 of the applicable vendor's standard TS (STS), shall be incorporated into the licensee's TS, if not already in the TS.]

proposed change, technical specification requirements for a Bases control program consistent with the Technical Specifications (TS) Bases Control Program described in Section 5.5 of the applicable vendor's STS.

To efficiently process the incoming license amendment applications, the staff requests each licensee applying for the changes addressed by the fully modified TSTF–358 Revision 5 using the CLIIP to include Bases for the proposed technical specification consistent with the Bases proposed in the fully modified TSTF–358 Revision 5. In addition, for those licensees that have not adopted requirements for a Bases control program by converting to the improved STS or by other means, the staff requests that you include the requirements for a Bases control program consistent with the STS in your request for the proposed change. The need for a Bases control program stems from the need for adequate regulatory control of some key elements of the proposal that are contained in the proposed Bases for SR 3.0.3. The staff is requesting that the Bases be included with the proposed license amendments because, in this case, the changes to the technical specifications and changes to the associated Bases form an integrated change to a plant's licensing bases. To ensure that the overall change, including the Bases, includes the appropriate regulatory controls, the staff plans to condition the issuance of each license amendment on incorporation of the changes to the Bases document and on ensuring the licensee's TS have a Bases Control Program for controlling changes to the Bases. The CLIIP does not prevent licensees from requesting an alternative approach or proposing the changes without the requested Bases and Bases control program. Variations from the approach recommended in this notice may, however, require additional justification, additional review by the NRC staff and may increase the time and resources needed for the review.

Public Notices

The staff issued a **Federal Register** Notice (66 FR 32400, June 14, 2001) that requested public comment on the NRC's pending action to approve modification of technical specification (TS) requirements regarding missed surveillances. In particular, following an assessment and draft safety evaluation by the NRC staff, the staff sought public comment on proposed changes to the standard technical specifications (STS), designated as TSTF–358 Revision 5 with some modifications that are identified in the FRN. The modified TSTF–358 Revision 5 is further revised by the response to the public comments. The TSTF–358 Revision 5 as submitted, and as revised by both the FRN and the public comments (''fully modified TSTF–358 Revision 5''), can both be viewed on the NRC's web page at http:/ www.nrc.gov/NRR/sts/sts.htm. The TSTF–358 Revision 5 change request, the fully modified TSTF–358 Revision 5, as well as the NRC staff's safety evaluation may be examined, and/or copied for a fee, at the NRC/s Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Library component on the NRC Web site, (the Electronic Reading Room).

In response to the notice soliciting comments from interested members of the public about modifying the TS requirements regarding missed surveillances, the staff received six sets of comments (three from individual licensees, one from the Nuclear Energy Institute, one from a law firm that represents licensees, and one from a member of the public). Specific comments on the model SE were offered, and are summarized and discussed below:

1. *Comment:* A licensee suggested that the risk evaluation required by the modification to SR 3.0.3 for a missed surveillance (SR) after 24 hours is: (1) Redundant to 10 CFR 50.65(a)(4) since a missed surveillance would be treated as an emergent condition per NEI guidance and, in addition, since the SR would still need to be performed, a risk assessment is required per (a)(4); and (2) in error in that it implies that there is no need to perform a risk assessment for surveillances that will be missed for less than 24 hours since 10 CFR 50.65 (a)(4) requires a risk assessment regardless of the time the surveillance will remain missed.

Response: SR 3.0.3 does not supplant the requirements of 10 CFR 50.65 (a)(4). In accordance with (a)(4), before any maintenance activity (including performing surveillances under any circumstances), the licensee shall assess and manage risk associated with the maintenance activity.

The SR 3.0.3 required risk evaluation is an additional increment to the usual (a)(4) evaluation, and is to address the decision to use the extended surveillance frequency (the longer surveillance test interval (STI) of performing the SR late) and provide information on the length of time the STI can be safely extended. For surveillances that would be delayed beyond 24 hours after discovery of being missed, it is essential to satisfy technical specifications that a specific risk assessment be performed, above that required by 10 CFR 50.65 (a)(4), to account for STI increases. This additional risk evaluation, stipulated by SR 3.0.3, is not required if the surveillance can be performed within 24 hours of its discovery of being missed; the usual (a)(4) analysis will suffice.

2. *Comment:* Several of the comments addressed the Bases statement that a missed surveillance ''shall be performed at the first reasonable opportunity.'' There are two aspects to these comments: first, that the list of considerations for ''first reasonable opportunity'' is different in the SE and the Base, and the impact on the safety analysis may be difficult to determine; and second, that the use of the term ''shall'' implies a requirement, which should not be made in the Bases.

Response: The list of considerations for the basis of the delay in the safety evaluation (SE) is intended to clarify the Bases list in light of the risk informed nature of the SR 3.0.3 modification, and not intended to be materially different. However, to avoid confusion, the Bases list will be made consistent with the SE list. The added phrase on evaluating the ''impact on the accident analysis,'' while it is very rare that a missed surveillance will have any effect on the accident analysis, will be retained since it is consistent with the purpose of the maintenance rule. The staff felt that the use of the term ''shall'' in the Bases was balanced by the ''first reasonable'' phrase. However, to avoid confusion, and since the intent of SE 3.0.3 is to impose requirements and the intent of its Bases is to provide clarification, the staff will replace the word ''shall'' with the word ''should'' in the Bases.

3. *Comment:* A licensee commented that the proposed Bases statement, ''the missed surveillance should be treated as an emergent condition as discussed in the Regulatory Guide,'' is in error since Regulatory Guide 1.182 does not discuss emergent conditions, or other similarly mentioned phrases.

Response: Regulatory Guide 1.182 endorses NEI document, ''NUMARC 93–01,'' which discusses these terms; Regulatory Guide 1.182 contains these phrases, and associated discussion, through reference of NUMARC 93–01. The significant point being made is that the missed surveillance should be treated as an emergent condition.

4. *Comment:* A member of the public commented that the FRN did not provide a complete and accurate text of the proposed change, because it lacked a mark-up of the STS that showed the changes.

Response: The staff believes that the FRN completely and accurately described the TS and Bases changes such that the public could understand the proposal. The markup of STS wording was available in the TSTF; the proposed TSTF–358 Revision 5 markup was available upon request.

5. *Comment:* A member of the public and NEI noted that ''the staff plans to condition the issuance of each license amendment on incorporation of the changes into the Bases document and on requiring the licensee to control the changes in accordance with the Bases Control Program.'' The member of the public stated that this requirement is not addressed the SE and seems contrary to the concept of the Improved Standard Technical Specifications (STS). NEI is concerned that the addition of NRC conditions just before publication for comment of a model safety evaluation could impede industry adoption of the associated CLIIP.

Response: The staff believes that the need for this requirement is adequately addressed in the Applicability paragraph of the introduction to the SE, and need not be in the SE proper since it is not directly related to the proposed SR 3.0.3 modification, but rather to the control process of the related Bases. Further, this requirement is not contrary to the concept of the STS since all plants adopt this program upon conversion to the STS. The intent of this statement is to indicate that this aspect of the STS is viewed as essential to approval of the proposed change, and will be included as part of the CLIIP. Thus, prior to granting this change, the staff will ensure that the licensee has a Bases Control Program, consistent with the STS. Licensees wishing to justify adopting this change without adopting the Bases Control Program can submit such a request under the normal license amendment process, and not part of the CLIIP.

The staff does not believe that the addition of this condition will impede industry adoption of this change. In addition to being needed to adopt TSTF–358, this requirement facilitates the common goal of standardizing this program, which is part of the STS that serves as the ''point of departure'' for this proposed change.

6. *Comment:* A member of the public commented that it was unnecessary to state, ''All missed Surveillances will be placed in the licensees Corrective Action Program,'' since a missed Surveillance is a nonconformance and 10 CFR 50, Appendix B, Criterion XVI, already requires a nonconformance be evaluated by a Corrective Action Program. Another comment was that it should be clarified how invoking SR 3.0.3 will be viewed and treated with regard to ''violation.''

Response: As long as the requirements of SR 3.0.3 are met for TS surveillances, then a missed surveillance will not be considered either a nonconformance issue nor a TS violation. Therefore, it is necessary to explicitly state that, ''All missed Surveillances will be placed in the licensee's Corrective Action Program.''

7. *Comment:* A member of the public commented that it should be clarified that SR 3.0.3 does not extend the regulation requirements; TS cannot override regulation.

Response: The comment is correct in that TS cannot override regulation. If a regulation-based surveillance frequency is exceeded, the licensee is in nonconformance with the regulations and the TS cannot alter that fact. This differs from the previous questions where a TS controlled STI has been exceeded and SR 3.0.3 is entered, all with in the framework of the TS, and the TS are not then violated. When a regulation-based surveillance frequency is exceeded, the regulation has been violated, but the appropriate operational course of action still needs to be determined. If a regulation based SR is missed, the regulation normally does not stipulate the subsequent course of action; the TS provide the appropriate actions. What the Bases are intending to clarify is that once the surveillance frequency is exceeded, and the unit is out of the condition in which the surveillance can be performed, SR 3.0.3 then will provide the means for determining the correct and safest course of action.

8. *Comment:* A commenter suggested that a period of at least one year be provided during which licensees may reference the model SE and NSHC determination of the CLIIP product.

Response: This will be stipulated.

9. *Comment:* NEI commented that the CLIIP process should be refined such that modifications to a TSTF change traveler that are identified before publication of a CLIIP for public comment can be resolved prior to that publication. The objective would be a ''notice of opportunity to comment'' that endorses a TSTF traveler without exception.

Response: In general, that staff agrees. However, in some specific cases when the proposed change does not involve a substantive technical change, as in this case, it may be beneficial to publish the change in the FRN, and resolve any issues through the comment process. Also, public comments may require changes. Those changes, if substantive, will be discussed with stakeholders in a public forum prior to the second FRN.

10. *Comment:* It was commented that a sample model application package should be noticed to facilitate the adoption of these changes.

Response: A sample model application package is included with this second FRN.

11. *Comment:* It was commented that the first paragraph of Section 2.1, ''Background Determination,'' in the Proposed Safety Evaluation (66 FR 32402), Item 2 should read: ''(as stated in the existing [SR 3.0.3] Bases).''

Response: This editorial comment is correct, and the Proposed Safety Evaluation will be revised accordingly.

12. *Comment:* It was commented that TSTF–358, Revision 5, should be updated to include the NRC noted editorial changes to enable the model SE to endorse the TSTF revision without exception.

Response: The change referenced in the **Federal Register** Notice (FRN) 66FR32400, of June 14, 2001, is TSTF–358 Revision 5 with some modifications that are identified in the FRN. The modified TSTF–358 Revision 5 is further revised by the response to the public comments (fully modified TSTF–358 Revision 5). The model SE references the final fully modified TSTF–358 Revision 5. The NEI TSTF can incorporate the modifying changes to TSTF–358 Revision 5 and submit TSTF–358 Revision 6.

Dated at Rockville, Maryland, this 24th day of September 2001.

For the Nuclear Regulatory Commission.

William D. Beckner,

Technical Specification Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

Attachment: Sample Model Application.

The following example of an application was prepared by the NRC staff to facilitate use of the consolidated line item improvement process (CLIIP). The model provides the expected level of detail and content for an application to revise technical specifications regarding missed surveillance (and adoption of a technical specification bases control program) [1] using CLIIP. licensees remain responsible for ensuring that their actual application fulfills their administrative requirements as well as Nuclear Regulatory Commission Regulations.

U.S. Nuclear Regulatory Commission,
Document Control Desk,
Washington, DC 20555.

Subject: Plant name

Docket no. 50—Application for technical specification change regarding missed surveillance (and adoption of a technical

[1] If not already in the facility Technical Specifications.

specifications bases control program)[1] using the consolidated line item improvement process

Gentleman: In accordance with the provisions of 10 CFR 50.90 [LICENSEE] is submitting a request for an amendment to the technical specifications (TS) for [PLANT NAME, UNIT NOS.].

The proposed amendment would modify TS requirements for missed surveillances in SR 3.0.3, (and, in conjunction with the proposed change, TS requirements for a Bases control program consistent with TS Bases Control Program described in Section 5.5 of the applicable vendor's Standard Technical Specifications.)

Attachment 1 provides a description of the proposed change, the requested confirmation of applicability, and plant-specific verifications. Attachment 2 provides the existing TS pages marked up to show the proposed change. Attachment 3 provides revised (clean) TS pages. Attachment 4 provides a summary of the regulatory commitments made in this submittal. (IF APPLICABLE: Attachment 5 provides the existing TS Bases pages marked up to show the proposed change (for information only).)

[LICENSEE] requests approval of the proposed License Amendment by [DATE], with the amendment being implemented [BY DATE OR WITHIN X DAYS].

In accordance with 10 CFR 50.91, a copy of this application, with attachments, is being provided to the designated [STATE] Official.

I declare under penalty of perjury under the laws of the United Stats of America that I am authorized by [LICENSEE] to make this request and that the foregoing true and correct. (Note that request may be notarized in lieu of using this oath or affirmation statement).

If you should have any questions regarding this submittal, please contact [NAME, TELEPHONE NUMBER]

Sincerely,

[Name, Title]

Attachments:

1. Description and Assessment
2. Proposed Technical Specification Changes
3. Revised Technical Specification Pages
4. If applicable: Regulatory Commitments
5. Proposed Technical Specification Bases Changes

cc: NRC Project Manager
NRC Regional Office
NRC Resident Inspector
State Contact

ATTACHMENT 1

Description and Assessment

1.0 DESCRIPTION

The proposed amendment would modify technical specifications (TS) requirements for missed surveillances in SR 3.0.3.[2]

The changes are consistent with Nuclear Regulatory Commission (NRC) approved Industry/Technical Specification Task Force (TSTF) STS change TSTF–358 Revision 5, as modified by **Federal Register** Notice 66FR32400, of June 14, 2001, and in response to public comments. The availability of this TS improvement was published in the **Federal Register** on [DATE] as part of the consolidated line item improvement process (CLIIP).

2.0 ASSESSMENT

2.1 Applicability of Published Safety Evaluation

[LICENSEE] has reviewed the safety evaluation dated [DATE] as part of the CLIIP. This review included a review of the NRC staff's evaluation, as well as the supporting information provided to support TSTF–358. [LICENSEE] has concluded that the justifications presented in the TSTF proposal and the safety evaluation prepared by the NRC staff are applicable to [PLANT, UNIT NOS.] and justify this amendment for the incorporation of the changes to the [PLANT] TS.

2.2 Optional Changes and Variations

[LICENSEE] is not proposing any variations or deviations from the TS changes described in the fully modified TSTF–358 Revision 5 or the NRC staff's model safety evaluation dated [DATE].

3.0 REGULATORY ANALYSIS

3.1 No Significant Hazards Consideration Determination

[LICENSEE] has reviewed the proposed no significant hazards consideration determination (NSHCD) published in the **Federal Register** as part of the CLIIP. [LICENSEE] has concluded that the proposed NSHCD presented in the **Federal Register** notice is applicable to [PLANT] and is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

3.2 Verification and Commitments

As discussed in the notice of availability published in the **Federal Register** on [DATE] for this TS improvement, plant-specific verifications were performed as follows:

[LICENSEE] has established TS Bases for SR 3.0.3 which state that use of the delay period established by [Surveillance Requirement 3.0.3] is a flexibility which is not intended to be used as an operational convenience to extend surveillance intervals, but only for the performance of missed surveillances.

The modification will also include changes to the Bases for [SR 3.0.3] that provide details on how to implement the new requirements. The Bases changes provide guidance for surveillance frequencies that are not based on time intervals but are based on specified unit conditions, operating situations, or requirements of regulations. In addition, the Bases changes state that [LICENSEE] is expected to perform a missed surveillance test at the first reasonable opportunity, taking into account appropriate considerations, such as the impact on plant risk and accident analysis assumptions, consideration of unit conditions, planning, availability of personnel, and the time required to perform the surveillance. The Bases also state that the risk impact should be managed through the program in place to implement 10 CFR 50.65(a)(4) and its implementation guidance, NRC Regulatory Guide 1.182. ''Assessing and Managing Risks Before Maintenance Activities at Nuclear Power Plants,'' and that the missed surveillance should be treated as an emergent condition, as discussed in Regulatory Guide 1.182. In addition, the Bases state that the degree of depth and rigor of the evaluation should be commensurate with the importance of the component and that missed surveillances for important components should be analyzed quantitatively. The Bases also state that the results of the risk evaluation determine the safest course of action. In addition, the Bases state that all missed surveillances will be placed in the licensee's Corrective Action Program. Finally, [LICENSEE] has a Bases Control Program consistent with Section 5.5 of the STS.

4.0 ENVIRONMENTAL EVALUATION

[LICENSEE] has reviewed the environmental evaluation included in the model safety evaluation dated [DATE] as part of the CLIIP. [LICENSEE] has concluded that the staff's findings presented in that evaluation are applicable to [PLANT] and the evaluation is hereby incorporated by reference for this application.

ATTACHMENT 2

PROPOSED TECHNICAL SPECIFICATION CHANGES (MARK-UP)

ATTACHMENT 3

PROPOSED TECHNICAL SPECIFICATION PAGES

ATTACHMENT 4

LIST OF REGULATORY COMMITMENTS

The following table identifies those actions committed to by [LICENSEE] in this document. Any other statements in this submittal are provided for information purposes and are not considered to be regulatory commitments. Please direct questions regarding these commitments to [CONTACT NAME].

Regulatory commitments	Due date/event
[LICENSEE] will establish the Technical Specification Bases for SR 3.0.3 as adopted with the applicable license amendment.	[Complete or implemented with amendment].

ATTACHMENT 5

PROPOSED CHANGES TO TECHNICAL SPECIFICATION BASES PAGES

[FR Doc. 01–24342 Filed 9–27–01; 8:45 am]

BILLING CODE 7590–01–P

[1] If not already in the facility Technical Specifications.

[2] In conjunction with the proposed change, technical specifications (TS) requirements for a Bases Control Program, consistent with the TS Bases Control Program described in Section 5.5 of the applicable vendor's standard TS (STS), shall be incorporated into the licensee's TS, if not already in the TS.

OFFICE OF MANAGEMENT AND BUDGET

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Final guidelines, with request for comments.

SUMMARY: These guidelines implement section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554). Section 515 directs the Office of Management and Budget (OMB) to issue government-wide guidelines that ''provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.'' Within one year after OMB issues these guidelines, agencies must issue their own implementing guidelines that include ''administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency'' that does not comply with the OMB guidelines. OMB is also requesting additional comment for 30 days on the ''capable of being substantially reproduced'' standard (paragraphs V.3.B, V.9, and V.10) which is issued on an interim final basis.

DATES: *Effective Date:* October 1, 2001.

Comment Date: Comments on the ''capable of being substantially reproduced'' standard in paragraphs V.3.B, V.9, and V.10 must be submitted by October 29, 2001.

ADDRESSES: Please submit comments to Brooke J. Dickson of the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments can also be e-mailed to *informationquality@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Brooke J. Dickson, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Telephone (202) 395–3785.

SUPPLEMENTARY INFORMATION: In section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554; H.R. 5658), Congress directed the Office of Management and Budget (OMB) to issue, by September 30, 2001, government-wide guidelines that ''provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies * * *.'' Section 515(b) goes on to state that the OMB guidelines shall:

''(1) apply to the sharing by Federal agencies of, and access to, information disseminated by Federal agencies; and

''(2) require that each Federal agency to which the guidelines apply—

''(A) issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency, by not later than 1 year after the date of issuance of the guidelines under subsection (a);

''(B) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a); and

''(C) report periodically to the Director—

''(i) the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency; and

''(ii) how such complaints were handled by the agency.''

These guidelines are to be issued ''under sections 3504(d)(1) and 3516'' of the Paperwork Reduction Act of 1995; pursuant to section 3503 of that Act, the authorities of the OMB Director are carried out by the Administrator of the Office of Information and Regulatory Affairs.

Background

The focus of section 515 is on the Federal Government's information dissemination activities. Indeed, Federal agencies have disseminated information to the public for decades. Until recently, agencies have disseminated information principally by making paper copies of documents available to the public. In recent years, however, Federal information dissemination has grown due to the advent of the Internet, which has ushered in a revolution in communications. The Internet has enabled Federal agencies to disseminate an ever-increasing amount of information. Congress has strongly encouraged the Executive Branch's dissemination efforts in statutes that include particular dissemination activities and in the government-wide dissemination provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) (the PRA). In addition, the Executive Branch's strong support for information dissemination is reflected in the dissemination provisions of OMB Circular A–130, ''Management of Federal Information Resources,'' as well as in the provisions in OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' related to a Freedom of Information Act request for research data relating to published research findings produced under an award that were used by the Federal Government in developing an agency action that has the force and effect of law (64 FR 54926; October 8, 1999).

Section 515 builds upon the existing agency responsibility to ensure information quality. According to the PRA, agency Chief Information Officers (CIOs) must manage information resources to ''improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security.'' Before an agency collects information from 10 or more persons, the agency must seek public comment ''to enhance the quality, utility, and clarity of the information to be collected.'' The agency then must obtain OMB approval that is based upon an evaluation of the agency's need for the information, the ''practical utility'' of the information to be collected, and the minimization of burden that would be imposed on the public in responding to the collection. The CIO must certify to OMB that the agency, ''to the maximum extent practicable, uses information technology to reduce burden and improve data quality.''

In developing these guidelines to implement section 515, OMB recognized that Federal agencies disseminate many types of information in many different ways. A few examples can only begin to describe the breadth of information disseminated by the Federal government. Agencies disseminate statistical information, such as the aggregated information from the 2000 Census and the monthly and quarterly economic reports issued by the Bureau of Economic Analysis and the Bureau of Labor Statistics. Agencies disseminate information that aids members of the public in their daily activities, such as the National Weather Service's weather reports and the FAA's air travel advisories. Agencies disseminate information about health, safety, and environmental risks and information that they collect from regulated entities, such as EPA's

dissemination of Toxic Release Inventory information. Agencies also disseminate technical information that they create or obtain in the course of developing regulations, often involving scientific, engineering, and economic analysis. Agencies disseminate information when they issue reports and studies. Moreover, agencies provide the public with basic descriptions of agency authorities, activities and programs, along with the contact information for the public to interact with and access that information or those services.

Underlying Principles

In accordance with section 515, OMB has designed the guidelines to help agencies ensure and maximize the quality, utility, objectivity and integrity of the information that they disseminate (meaning to share with, or give access to, the public). It is crucial that information Federal agencies disseminate meets these guidelines. In this respect, the fact that the Internet enables agencies to communicate information quickly and easily to a wide audience not only offers great benefits to society, but also increases the potential harm that can result from the dissemination of information that does not meet basic information quality guidelines. Recognizing the wide variety of information Federal agencies disseminate and the wide variety of dissemination practices that agencies have, OMB developed the guidelines with several principles in mind.

First, OMB designed the guidelines to apply to a wide variety of government information dissemination activities that may range in importance and scope. OMB also designed the guidelines to be generic enough to fit all media, be they printed, electronic, or in other form. OMB sought to avoid the problems that would be inherent in developing detailed, prescriptive, ''one-size-fits-all'' government-wide guidelines that would artificially require different types of dissemination activities to be treated in the same manner. Through this flexibility, each agency will be able to incorporate the requirements of these OMB guidelines into the agency's own information resource management and administrative practices.

Second, OMB designed the guidelines so that agencies will meet basic information quality standards. Given the administrative mechanisms required by section 515 as well as the standards set forth in the PRA, it is clear that agencies should not disseminate substantive information that does not meet a basic level of quality. We recognize that some government information may need to meet higher or more specific information quality standards than those that would apply to other types of government information. The more important the information, the higher the quality standards to which it should be held, for example, in those situations involving ''influential scientific or statistical information'' (a phrased defined in these guidelines). The guidelines recognize, however, that information quality comes at a cost. Accordingly, the agencies should weigh the costs (for example, including costs attributable to agency processing effort, respondent burden, maintenance of needed privacy, and assurances of suitable confidentiality) and the benefits of higher information quality in the development of information, and the level of quality to which the information disseminated will be held.

More specifically, the OMB guidelines state that ''agencies shall have a basic standard of quality (including objectivity, utility, and integrity) as a performance goal * * *''. We note, in the scientific context, that in 1996 the Congress, for health decisions under the Safe Drinking Water Act, has already adopted a basic standard of quality for the use of science in agency decisionmaking. Under 42 U.S.C. 300g–1(b)(3)(A), an agency is directed, ''to the degree that an Agency action is based on science,'' to use ''(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and (ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).'' We also note that the OMB guidelines call for an additional level of quality ''in those situations involving influential scientific or statistical information.'' The additional level of quality concerns a standard of care for scientific or statistical analytical results, a ''capable of being substantially reproduced'' standard that is discussed below.

We further note that in the 1996 amendments to the Safe Drinking Water Act the Congress adopted a basic quality standard for the dissemination of public information about risks of adverse health effects. Under 42 U.S.C. 300g–1(b)(3)(B), the agency is directed, ''to ensure that the presentation of information [risk] effects is comprehensive, informative, and understandable.'' The agency is further directed, ''in a document made available to the public in support of a regulation [to] specify, to the extent practicable—(i) each population addressed by any estimate [of applicable risk effects]; (ii) the expected risk or central estimate of risk for the specific populations [affected]; (iii) each appropriate upper-bound or lower-bound estimate of risk; (iv) each significant uncertainty identified in the process of the assessment of [risk] effects and the studies that would assist in resolving the uncertainty; and (v) peer-reviewed studies known to the [agency] that support, are directly relevant to, or fail to support any estimate of [risk] effects and the methodology used to reconcile inconsistencies in the scientific data.'' We urge each agency in developing its guidelines to evaluate whether adopting or adapting these basic Congressional standards would be appropriate for judging the quality of disseminated scientific or statistical information.

Third, OMB designed the proposed guidelines so that agencies can apply them in a common-sense and workable manner. It is important that these guidelines do not impose unnecessary administrative burdens that would inhibit agencies from continuing to take advantage of the Internet and other technologies to disseminate information that can be of great benefit and value to the public. In this regard, OMB encourages agencies to incorporate the standards and procedures required by these guidelines into their existing information resources management and administrative practices rather than create new and potentially duplicative or contradictory processes. The primary example of this is that the guidelines recognize that, in accordance with OMB Circular A–130, agencies already have in place well-established information quality standards and administrative mechanisms that allow persons to seek and obtain correction of information that is maintained and disseminated by the agency. Under the OMB guidelines, agencies need only ensure that their own guidelines are consistent with these OMB guidelines, and then ensure that their administrative mechanisms satisfy the standards and procedural requirements in the new agency guidelines. Similarly, agencies may rely on their implementation of the Federal Government's computer security laws (formerly, the Computer Security Act, and now the computer security provisions of the PRA) to establish appropriate security safeguards for ensuring the ''integrity'' of the information that the agencies disseminate.

Summary of OMB Guidelines

These guidelines apply to Federal agencies subject to the Paperwork Reduction Act (44 U.S.C. chapter 35). Agencies are directed to develop information resources management

procedures for reviewing and substantiating (by documentation or other means selected by the agency) the quality (including the objectivity, utility, and integrity) of information before it is disseminated. In addition, agencies are to establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of information disseminated by the agency that does not comply with the OMB or agency guidelines. Consistent with the underlying principles described above, these guidelines stress the importance of having agencies apply these standards and develop their administrative mechanisms so they can be implemented in a common sense and workable manner. Moreover, agencies must apply these standards flexibly, and in a manner appropriate to the nature and timeliness of the information to be disseminated, and incorporate them into existing agency information resources management and administrative practices.

Section 515 denotes four substantive terms regarding information disseminated by Federal agencies: quality, utility, objectivity, and integrity. It is not always clear how each substantive term relates—or how the four terms in aggregate relate—to the widely divergent types of information that agencies disseminate. The guidelines provide definitions that attempt to establish a clear meaning so that both the agency and the public can readily judge whether a particular type of information to be disseminated does or does not meet these attributes.

In the guidelines, OMB defines ''quality'' as the encompassing term, of which ''utility,'' ''objectivity,'' and ''integrity'' are the constituents. ''Utility'' refers to the usefulness of the information to the intended users. ''Objectivity'' focuses on whether the disseminated information is being presented in an accurate, clear, complete, and unbiased manner, and as a matter of substance, is accurate, reliable, and unbiased. ''Integrity'' refers to security—the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. OMB modeled the definitions of ''information,'' ''government information,'' ''information dissemination product,'' and ''dissemination'' on the longstanding definitions of those terms in OMB Circular A–130, but tailored them to fit into the context of these guidelines.

In addition, agencies have two reporting requirements. The first report, implemented no later than one year after the issuance of these OMB guidelines (no later than October 1, 2002), must provide the agency's information quality guidelines that describe administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of disseminated information that does not comply with the OMB and agency guidelines. The second report is an annual fiscal year report to OMB (to be first submitted on January 1, 2004) providing information (both quantitative and qualitative, where appropriate) on the number, nature, and resolution of complaints received by the agency regarding its perceived or confirmed failure to comply with these OMB and agency guidelines.

Public Comments and OMB Response

Section 515(a) required OMB to provide the public and the Federal agencies the opportunity to comment on these guidelines. OMB worked with Federal agencies, through a working group and through an inter-agency comment process, in the development of the proposed guidelines. The proposed guidelines were published in the **Federal Register** on June 28, 2001 (66 FR 34489) providing a public comment period of 45 days. OMB received a total of 100 comments from academic institutions (36), Federal agencies (26), individual members of the public (7), associations affiliated with academia (5), associations affiliated with medical, social science or science interests (15), associations affiliated with Federal Government interests (4), and associations affiliated with industry interests (7).

General Concerns. Many comments expressed support for the idea of government-wide quality standards for information disseminated by Federal agencies. Comments also expressed support for OMB's commitment to creating flexible general guidelines and to minimizing the administrative costs and burdens that these guidelines will impose. The majority of comments focused on two aspects of the proposed guidelines: suggestions for placing limitations on the administrative correction mechanisms requirements of the statute; and the need to clarify specific definitions and other terms found in the guidelines.

Many comments raised questions and concerns about how these guidelines interact with existing statutes and policies, including the Paperwork Reduction Act and the Government Performance and Results Act. We have attempted to draft these guidelines in a way that addresses the requirements of section 515, but does not impose a completely new and untried set of standards upon Federal agencies. We encourage agencies to consider the effect of relevant existing statutes and policies in the development of their own guidelines.

Administrative Mechanisms. These guidelines require agencies to establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of information maintained and disseminated by the agency that does not comply with the OMB guidelines. Many comments suggested that limits be imposed on the types of information that should be subject to these guidelines, in particular, information that is disseminated by agency libraries. OMB agrees that archival information disseminated by Federal agency libraries (for example, Internet distribution of published articles) should not be covered by these guidelines, given that libraries do not endorse the information that they disseminate. Moreover, an agency's dissemination of public filings (for example, corporate filings with the Securities and Exchange Commission) is not covered by these guidelines. In each of these situations, the agencies have not authored these documents and have not adopted them as representing the agencies' views. By disseminating these materials, the agencies are simply ensuring that the public can have quicker and easier access to materials that are publicly available. In developing its implementing guidelines, and in accordance with the criteria set forth in these guidelines, each agency should evaluate and identify the types of information that it disseminates that will be subject to its guidelines.

In addition, comments also raised the concern that the guidelines would apply to ''preliminary'' information, and they recommended that the guidelines exclude such information. OMB appreciates the concerns that these comments have raised. However, OMB does not believe that an exclusion for ''preliminary'' information is necessary or appropriate. It is still important that the quality of preliminary information be ensured and that preliminary information be subject to the administrative complaint-and-correction process.

A few comments stated that affected information should be limited to information used in agency rulemaking. While this has been the position of previous policies which these guidelines are not intended to modify or replace (*see,* e.g., section __.36(d) in OMB Circular A–110), we believe the

plain meaning and intent of section 515 covers the larger government information universe.

Based on the public comments received, these guidelines allow agencies to determine the appropriate level of correction for a complaint received. Several comments suggested that agencies use disclaimers to distinguish the status of information, a practice that agencies should consider adopting as they consider their information holdings.

OMB received detailed discussion on the requirement that agencies develop administrative mechanisms allowing for affected persons to ''seek and obtain correction of information that does not comply with OMB's guidelines.'' Members of the scientific community expressed strong concerns about the possibility of a Federal agency that would ''correct'' scientific information without carrying out the scientific analysis to support the correction. Comments from all fields suggested in various ways that challenging individuals should be ''required to openly state his/her relationship with the data/information (familiarity/expertise) and provide information [as] to his/her interest in it.''

Comments also pointed out great potential for abuse of this process. As one association summarized, ''This could be seen to provide grounds for interested parties to demand access to underlying data, to compel the government to replicate research findings (at great expense and with unnecessary delay), or in other ways impede, discredit, harass or stymie research.'' For example, the National Oceanic and Atmospheric Administration (NOAA) explained that they receive numerous complaints from the public when they miss a weather forecast. ''Does this mean that the NWS [National Weather Service] could be requested to change a forecast after the fact? Or could someone with an economic interest challenge official observational data which could affect the value of an insurance payment?'' asks NOAA.

Overall, OMB does not envision administrative mechanisms that would burden agencies with frivolous claims. Instead, the correction process should serve to address the genuine and valid needs of the agency and its constituents without disrupting agency processes. Agencies, in making their determination of whether or not to correct information, may reject claims made in bad faith or without justification, and are required to undertake only the degree of correction that they conclude is appropriate for the nature and timeliness of the information involved, and explain such practices in their annual fiscal year reports to OMB.

Numerous comments provided language to clarify or limit the term, ''affected persons.'' One academic institution suggested that the term, ''affected persons,'' reflects a criterion of ''direct measurable impact with significant personal consequence.'' Other academic institutions suggested that ''affected persons should not be permitted to challenge the substance of information without showing that a qualified scientist has found fault with its quality or integrity.'' Similarly, some comments argued that the ability to correct scientific information should be limited only to other scientists. Several associations suggested that OMB identify the types of information that could be challenged rather than to focus on the characteristics of a ''legitimate'' challenger. OMB considered these comments at length. Our conclusion is that ''affected persons'' are people who may benefit or be harmed by the disseminated information. This includes persons who are seeking to address information about themselves as well as persons who use information. However, each agency should consider how persons (which includes groups, organizations and corporations, as defined by the Paperwork Reduction Act) will be affected by the agency's information. Agencies should address the issue of ''affected persons'' in consultation with their constituents through the public comment process that agencies will provide after drafting their proposed guidelines and before submitting them for OMB review.

These guidelines require that an agency official be designated to receive and resolve complaints regarding information that does not comply with either the OMB guidelines or the agency's guidelines. In the proposed guidelines, we required, with a limited exception, that the Chief Information Officer (CIO) of the agency have this responsibility. Of the government agencies that commented on this provision, many pointed to their specific agency practices on information quality and their designation of a ''quality official'' who was not necessarily working under the agency CIO. Recognizing that some agencies may have specific officials in place to address quality issues, the final guidelines allow agencies to designate an appropriate official. Agencies may also designate multiple officials, i.e., based on the needs of individual agency components, as long as there is a single official with these overall responsibilities designated at the agency level. The authorized official also needs to consult with the CIO on quality matters pertaining to information disseminated by the agency.

Agencies need to respond to complaints in a manner appropriate to the nature and extent of the complaint. Examples of appropriate responses, as suggested by comments, include personal contacts via letter or telephone, form letters, press releases or mass mailings that correct a widely disseminated error or address a frequently raised complaint. Agencies may want to utilize other methods of response under existing agency practices. For example, for agencies with a high volume of complaints, it is acceptable for the agency to describe a sample of those complaints in the annual fiscal year report to OMB. For categories of inconsequential or trivial complaints identified in the agency guidelines, an agency may decide that no response is necessary. Agencies should describe to OMB as part of the annual fiscal year report the chosen response mechanisms and how they are working.

Definitions and Other Terms. Section 515 denotes four substantive terms regarding information disseminated by Federal agencies: quality, utility, objectivity, and integrity. We have defined ''quality'' as an encompassing term. The organizations and individuals that submitted comments did not object to having ''quality'' defined as an encompassing term, but suggested that we should discuss each term separately. The principles laid out in the proposed guidelines, stated one comment, create ''subjective definitions'' of the four terms. This comment warned OMB that ''subjective definitions of quality, objectivity, utility, and integrity could cause agencies to delay data release or disregard data for fear of challenge.'' Other comments expressed similar views, or as one association observed, ''Science does not recognize a sliding scale of quality.''

These guidelines reflect OMB's determination that ''quality,'' ''utility,'' ''objectivity,'' and ''integrity'' are closely interrelated concepts in the context of these guidelines. Collectively, these terms address the following three aspects of the information that is to be disseminated: whether the information is useful to the intended users of the information; whether the disseminated information is being presented in an accurate, clear, complete, and unbiased manner in both presentation and as a characteristic that should be inherent to quality information; and whether the information has been protected from unauthorized access or revision.

Some comments stated that OMB was ''exceeding the statutory mandate'' and going beyond ''Congressional intent'' in specifying scientific and statistical information in these guidelines. Others felt that we should simply acknowledge that the scientific and statistical communities already have practices and standards for their information, rather than create another set of standards for these information types. OMB does not agree with those comments that said the proposed guidelines went beyond the statute in covering statistical and scientific information. Section 515 expressly states that its scope includes statistical information. Moreover, section 515 has no exclusion for scientific information, and in many respects it is very similar to (and overlaps with) statistical information. OMB, however, does appreciate the concerns that the comments raised about the guidelines not creating another set of standards for statistical and scientific information. Our guidelines do not seek to impose new standards on these communities, but to reiterate the standards that are already held in those communities.

Recognizing public interest in medical and public health information, we have specifically added a provision stating, ''Agencies shall adopt specific standards of quality that are appropriate for the various categories of information they disseminate.'' For example, OMB encourages agencies, in crafting their agency-specific guidelines, to promote objectivity in information quality in ways that protect the confidentiality of research subjects and encourage public participation in research. These concerns are particularly salient in medical and public health research.

A number of comments regarded our discussion of ensuring that scientific information be ''substantially reproducible'' as requiring agencies to replicate original data and to perform independent analysis upon all scientific information disseminated by the agency. We have responded to these concerns in a number of ways. First, we make it clear that what we now refer to as the ''capable of being substantially reproduced'' standard applies to analytical results that are disseminated, and does not apply to the original or supporting data. Thus, replication of original data is not required. Second, the ''capable of being substantially reproduced'' standard is applicable only to ''influential'' scientific and statistical information as defined in the guidelines. Third, the guidelines call for the agency to determine that ''influential'' analytical results be capable of being substantially reproducible by independent analysis. We intend this standard to say that, if appropriately qualified persons used the same or a similar methodology, they would be expected to achieve similar findings and results.

Based on the concerns expressed in the comments, we expanded upon our discussion of ''capable of being substantially reproduced'' in our definition of ''objective,'' and added two explanatory definitions. We state, in paragraphs V.3.B, V.9, and V.10:

In addition, ''objectivity'' involves a focus on ensuring accurate, reliable, and unbiased information. In a scientific or statistical context, the original or supporting data shall be generated, and the analytical results shall be developed, using sound statistical and research methods.

i. If the results have been subject to formal, independent, external peer review, the information can generally be considered of acceptable objectivity.

ii. In those situations involving influential scientific or statistical information, the results must be capable of being substantially reproduced, if the original or supporting data are independently analyzed using the same models. Reproducibility does not mean that the original or supporting data have to be capable of being replicated through new experiments, samples or tests.

iii. Making the data and models publicly available will assist in determining whether analytical results are capable of being substantially reproduced. However, these guidelines do not alter the otherwise applicable standards and procedures for determining when and how information is disclosed. Thus, the objectivity standard does not override other compelling interests, such as privacy, trade secret, and other confidentiality protections.

''Influential'' when used in the phrase ''influential scientific or statistical information'' means the agency expects that information in the form of analytical results will likely have an important effect on the development of domestic or international government or private sector policies or will likely have important consequences for specific technologies, substances, products or firms.

''Capable of being substantially reproduced'' means that independent reanalysis of the original or supporting data using the same methods would generate similar analytical results, subject to an acceptable degree of imprecision.

As a general matter, in the scientific and research context, we regard technical information that has been subjected to formal, independent, external peer review as presumptively objective. An example of a formal independent external peer review is the review process used by scientific journals. However, depending on the nature and timeliness of the information involved, an agency may decide that peer review is not necessary or appropriate. On the other hand, in those situations involving influential scientific or statistical information, the substantial reproducibility standard is added as a quality standard above and beyond some peer review quality standards. In the definition of ''influential,'' when used in the phrase ''influential scientific or statistical information,'' we note that the manner in which people perceive the scientific or statistical information can have important consequences for specific policies, technologies, substances, products, and firms.

Based on concerns with the ''substantially reproducible'' standard, a number of comments suggested that OMB should repropose this standard for additional public comment, rather than going final at this time. While, in deference to the statutory deadline, OMB is issuing the ''capable of being substantially reproduced'' standard (paragraphs V.3.B, V.9, and V.10), OMB is doing so on an interim final basis. We specifically request public comments on this standard by October 29, 2001. In addition, OMB wants to stress that the guidelines published today should be understood as a beginning of an evolutionary process that will include draft agency guidelines, public comment, final agency guidelines, development of experience with OMB and agency guidelines, and continued refinement of both OMB and agency guidelines.

OMB modeled the draft definitions of ''information,'' ''government information,'' ''information dissemination product,'' and ''dissemination'' on the longstanding definitions of those terms in OMB Circular A–130, but tailored them to fit into the context of these guidelines. Information that is disseminated on behalf of an agency (through a contract or a grant) is considered to be sponsored by the agency and is subject to these guidelines. Consistent with the PRA concept of agency ''sponsorship'' of a collection of information, information is considered to be disseminated on behalf of an agency by a contractor or grantee if the dissemination is done at the agency's specific request or with the agency's specific approval. See 5 CFR 1320.3(d). Finally, it should be noted

that these guidelines focus primarily on the dissemination of substantive information (i.e. reports, studies, summaries) rather than information pertaining to basic agency operations.

We have clarified two terms for the final guidelines. The proposed guidelines included ''opinions'' in the definition of ''information.'' We agree with comments that indicated agencies should not be accountable for correcting someone's opinion, but in the agency's presentation of the information, it should be clear that what is being offered is someone's opinion rather than facts or the agency's views. ''Opinion'' has therefore been removed from the definition of ''information'' in the final guidelines. The definition for ''dissemination'' was also revised after discussions with two Federal agencies that correspond frequently with individual members of the public regarding their participation in the agency's programs. In addition, in the definition of ''dissemination,'' we changed the exclusion for ''judicial process'' to ''adjudicative process'' to make it clear that these guidelines do not apply to the issuance of agency adjudicative decisions.

Reporting Requirements. Agencies have two reporting requirements. The first report, taking effect no later than one year after the issuance of these OMB guidelines, must provide the agency's information quality guidelines that describe administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of disseminated information that does not comply with these OMB guidelines. During the year that agencies have to complete their agency guidelines, agencies must publish the draft reports in the **Federal Register** for a period of public comment, and no later than nine months after the issuance of OMB's guidelines, submit their draft reports to OMB for review. Upon completion of OMB's review, final agency guidelines must be published in the **Federal Register** and made available through the agency website. The entire process must be completed by no later than one year after the issuance of the OMB guidance (no later than October 1, 2002).

The second report is an annual fiscal year report to OMB (to be first submitted on January 1, 2004) providing information on the number, nature, and resolution of complaints received by the agency regarding its perceived or confirmed failure to comply with these OMB and agency guidelines. Regarding the proposed guidelines, we received detailed comments on the required report to OMB describing the number and nature of complaints received by the agency and how such complaints were resolved. Two Federal agencies stated that it would be burdensome to report to OMB on every single complaint they received and responded to, particularly because many of the complaints may be received in phone calls and given informal responses that address the callers' concerns. Recognizing that agencies may deal with large volumes of complaints on particular types of information disseminated by the agency, OMB's guidelines allow the agency to provide qualitative and/or quantitative descriptions of complaints received and how they were resolved (or not). OMB also recognizes that a large number of comments about a specific document may only demonstrate that the information is controversial, not that its quality is flawed.

In conclusion, issuance of these final guidelines meets the statutory requirement that section 515 imposed on OMB. As we stated earlier in this preamble, and in connection with the proposed guidelines, OMB has sought in developing these guidelines to make them flexible enough so that Federal agencies can apply them in a common sense, workable, and appropriately tailored manner to the wide variety of dissemination activities that the Federal Government undertakes. In addition, in drafting guidelines that will apply on a government-wide basis, OMB has been sensitive to the problem of unintended consequences and has tried to anticipate and address issues that could arise during the implementation of these guidelines. In this respect, the public and agency comments that we received on the proposed guidelines were very helpful and are greatly appreciated. As we explained above, we made a number of revisions to the guidelines to address the concerns raised in the comments, and we also believe that these and other concerns can be addressed as well in the implementing guidelines that each agency will develop in the coming months. In addition, OMB is issuing the ''capable of being substantially reproduced'' standard (paragraphs V.3.B, V.9, and V.10) on an interim final basis. We specifically request public comments on this standard over the next 30 days.

Moreover, over time as the agencies and the public gain further experience with the OMB guidelines, we would appreciate receiving any suggestions for how OMB could improve them. Just as OMB requested public comment before issuing these final guidelines, OMB will refine these guidelines as experience develops and further public comment is obtained.

Dated: September 24, 2001.

John D. Graham,

Administrator, Office of Information and Regulatory Affairs.

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

I. OMB Responsibilities

Section 515 of the Treasury and General Government Appropriations Act for FY2001 (Public Law 106–554) directs the Office of Management and Budget to issue government-wide guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by Federal agencies.

II. Agency Responsibilities

Section 515 directs agencies subject to the Paperwork Reduction Act (44 U.S.C. 3502(a)) to—

1. Issue their own information quality guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency no later than one year after the date of issuance of the OMB guidelines;

2. Establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with these OMB guidelines; and

3. Report to the Director of OMB the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines concerning the quality, objectivity, utility, and integrity of information and how such complaints were resolved.

III. Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

1. Overall, agencies shall adopt a basic standard of quality (including objectivity, utility, and integrity) as a performance goal and should take appropriate steps to incorporate information quality criteria into agency information dissemination practices. Quality is to be ensured and established at levels appropriate to the nature and timeliness of the information to be disseminated. Agencies shall adopt specific standards of quality that are appropriate for the various categories of information they disseminate.

2. As a matter of good and effective agency information resources

management, agencies shall develop a process for reviewing the quality (including the objectivity, utility, and integrity) of information before it is disseminated. Agencies shall treat information quality as integral to every step of an agency's development of information, including creation, collection, maintenance, and dissemination. This process shall enable the agency to substantiate the quality of the information it has disseminated through documentation or other means appropriate to the information.

3. To facilitate citizen review, agencies shall establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, timely correction of information maintained and disseminated by the agency that does not comply with OMB or agency guidelines. These administrative mechanisms shall be flexible, appropriate to the nature and timeliness of the disseminated information, and incorporated into agency information resources management and administrative practices.

4. The agency's pre-dissemination review, under paragraph III.2, shall apply to information that the agency first disseminates on or after October 1, 2002. The agency's administrative mechanisms, under paragraph III.3, shall apply to information that the agency disseminates on or after October 1, 2002, regardless of when the agency first disseminated the information.

IV. Agency Reporting Requirements

1. Agencies must designate the Chief Information Officer or another official to be responsible for agency compliance with these guidelines.

2. The agency shall respond to complaints in a manner appropriate to the nature and extent of the complaint. Examples of appropriate responses include personal contacts via letter or telephone, form letters, press releases or mass mailings that correct a widely disseminated error or address a frequently raised complaint.

3. Each agency must prepare a draft report, no later than April 1, 2002, providing the agency's information quality guidelines and explaining how such guidelines will ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency. This report must also detail the administrative mechanisms developed by that agency to allow affected persons to seek and obtain appropriate correction of information maintained and disseminated by the agency that does not comply with the OMB or the agency guidelines.

4. The agency must publish a notice of availability of this draft report in the **Federal Register**, and post this report on the agency's website, to provide an opportunity for public comment.

5. Upon consideration of public comment and after appropriate revision, the agency must submit this draft report to OMB for review regarding consistency with these OMB guidelines no later than July 1, 2002. Upon completion of that OMB review and completion of this report, agencies must publish notice of the availability of this report in the **Federal Register**, and post this report on the agency's web site no later than October 1, 2002.

6. On an annual fiscal-year basis, each agency must submit a report to the Director of OMB providing information (both quantitative and qualitative, where appropriate) on the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines and how such complaints were resolved. Agencies must submit these reports no later than January 1 of each following year, with the first report due January 1, 2004.

V. Definitions

1. ''Quality'' is an encompassing term comprising utility, objectivity, and integrity. Therefore, the guidelines sometimes refer to these four statutory terms, collectively, as ''quality.''

2. ''Utility'' refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that the agency disseminates to the public, the agency needs to consider the uses of the information not only from the perspective of the agency but also from the perspective of the public. As a result, when reproducibility and transparency of information are relevant for assessing the information's usefulness from the public's perspective, the agency must take care to ensure that reproducibility and transparency have been addressed in its review of the information.

3. ''Objectivity'' involves two distinct elements, presentation and substance.

A. ''Objectivity'' includes whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete, and unbiased presentation. Also, the agency needs to identify the sources of the disseminated information (to the extent possible, consistent with confidentiality protections) and, in a scientific or statistical context, the supporting data and models, so that the public can assess for itself whether there may be some reason to question the objectivity of the sources. Where appropriate, supporting data should have full, accurate, transparent documentation, and error sources affecting data quality should be identified and disclosed to users.

B. In addition, ''objectivity'' involves a focus on ensuring accurate, reliable, and unbiased information. In a scientific or statistical context, the original or supporting data shall be generated, and the analytical results shall be developed, using sound statistical and research methods.

i. If the results have been subject to formal, independent, external peer review, the information can generally be considered of acceptable objectivity.

ii. In those situations involving influential scientific or statistical information, the results must be capable of being substantially reproduced, if the original or supporting data are independently analyzed using the same models. Reproducibility does not mean that the original or supporting data have to be capable of being replicated through new experiments, samples or tests.

iii. Making the data and models publicly available will assist in determining whether analytical results are capable of being substantially reproduced. However, these guidelines do not alter the otherwise applicable standards and procedures for determining when and how information is disclosed. Thus, the objectivity standard does not override other compelling interests, such as privacy, trade secret, and other confidentiality protections.

4. ''Integrity'' refers to the security of information—protection of the information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.

5. ''Information'' means any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that an agency disseminates from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions, where the agency's presentation makes it clear that what is

being offered is someone's opinion rather than fact or the agency's views.

6. ''Government information'' means information created, collected, processed, disseminated, or disposed of by or for the Federal Government.

7. ''Information dissemination product'' means any book, paper, map, machine-readable material, audiovisual production, or other documentary material, regardless of physical form or characteristic, an agency disseminates to the public. This definition includes any electronic document, CD–ROM, or web page.

8. ''Dissemination'' means agency initiated or sponsored distribution of information to the public (see 5 CFR 1320.3(d) (definition of ''Conduct or Sponsor''). Dissemination does not include distribution limited to government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law. This definition also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes.

9. ''Influential'' when used in the phrase ''influential scientific or statistical information'' means the agency expects that information in the form of analytical results will likely have an important effect on the development of domestic or international government or private sector policies or will likely have important consequences for specific technologies, substances, products or firms.

10. ''Capable of being substantially reproduced'' means that independent reanalysis of the original or supporting data using the same methods would generate similar analytical results, subject to an acceptable degree of imprecision.

[FR Doc. 01–24172 Filed 9–27–01; 8:45 am]

BILLING CODE 3110–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Disclosure to Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') is requesting that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of a collection of information in its regulation on Disclosure to Participants (29 CFR Part 4011) (OMB control number 1212–0050). This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by October 29, 2001.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. Copies of the request for extension (including the collection of information) may be obtained without charge by writing to or visiting the PBGC's Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, or calling 202–326–4040. (TTY and TDD users may call 800–877–8339 and request connection to 202–326–4040). The regulation on Disclosure to Participants can be accessed on the PBGC's Web site at http://www.pbgc.gov.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: Section 4011 of the Employee Retirement Income Security Act of 1974 requires plan administrators of certain underfunded single-employer pension plans to provide an annual notice to plan participants and beneficiaries of the plan's funding status and the limits on the PBGC's guarantee.

The PBGC's regulation implementing this provision (29 CFR Part 4011) prescribes which plans are subject to the notice requirement, who is entitled to receive the notice, and the time, form, and manner of issuance of the notice. The notice provides recipients with meaningful, understandable, and timely information that will help them become better informed about their plans and assist them in their financial planning.

The collection of information under the regulation has been approved by OMB under control number 1212–0050 (expires October 31, 2001). The PBGC is requesting that OMB extend its approval for three years. 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 PBGC estimates that an average of 3,331 plans per year will respond to this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 2.13 hours and $107 per plan, with an average total annual burden of 7,102 hours and $355,200.

Issued in Washington, DC, this 24th day of September, 2001.

Stuart A. Sirkin,

Director, Corporate Policy and Research Department.

[FR Doc. 01–24372 Filed 9–27–01; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Liability for Termination of Single-Employer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') is requesting that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of a collection of information in its regulation on Employer Liability (29 CFR Part 4062) (OMB control number 1212–0017). This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by October 29, 2001.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. Copies of the request for extension (including the collection of information) may be obtained without charge by writing to or visiting the PBGC's Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, or calling 202–326–4040. (TTY and TDD users may call 800–877–8339 and request connection to 202–326–4040). The regulation on Employer Liability can be accessed on the PBGC's Web site at http://www.pbgc.gov.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: Section 4062 of the Employee Retirement Income Security Act of 1974 provides that the contributing sponsor of a single-employer pension plan and members of the sponsor's controlled group (''the employer'') incur liability (''employer liability'') if the plan terminates with assets insufficient to pay benefit liabilities under the plan. The PBGC's statutory lien for employer liability and the payment terms for employer liability are affected by whether and to what extent employer liability exceeds 30 percent of the employer's net worth.

Section 4062.6 of the PBGC's employer liability regulation (29 CFR 4062.6) requires a contributing sponsor or member of the contributing sponsor's controlled group who believes employer liability upon plan termination exceeds 30 percent of the employer's net worth to so notify the PBGC and to submit net worth information. This information is necessary to enable the PBGC to determine whether and to what extent employer liability exceeds 30 percent of the employer's net worth.

The collection of information under the regulation has been approved by OMB under control number 1212–0017 (expires October 31, 2001). The PBGC is requesting that OMB extend its approval for three years. 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 PBGC estimates that an average of 6 contributing sponsors or controlled group members per year will respond to this collection of information. The PBGC further estimates that the average annual burden of this collection of information will be 12 hours and $2,400 per respondent, with an average total annual burden of 72 hours and $14,400.

Issued in Washington, DC, this 24th day of September, 2001.

Stuart A. Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 01–24373 Filed 9–27–01; 8:45 am]

BILLING CODE 7708–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) *Collection title:* Verification of Supplemental Annuity.

(2) *Form(s) submitted:* G–88P.1, G–88P.2.

(3) *OMB Number:* N/A.

(4) *Expiration date of current OMB clearance:* N/A.

(5) *Type of request:* New.

(6) *Respondents:* Business or other-for-profit.

(7) *Estimated annual number of respondents:* 90.

(8) *Total annual responses:* 90.

(9) *Total annual reporting hours:* 180.

(10) *Collection description:* Under Section 2(b) of the Railroad Retirement Act, the Railroad Retirement Board pays supplemental annuities to qualified annuitants. The collection will obtain information from railroad employers needed to insure that the supplemental annuities are correctly adjusted and that the supplemental tax credits and liabilities are correct.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and to the OMB Desk Officer (RRB), at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–24286 Filed 9–27–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (To be published Wednesday, September 26, 2001).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

TIME AND DATE OF PREVIOUSLY ANNOUNCED MEETING: Monday, September 24, 2001 at 11:30 a.m.

CHANGE IN THE MEETING: Additional Item.

The following item was added to the closed meeting held on Monday, September 24, 2001: regulatory matter regarding financial institutions.

Commissioner Unger, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, delegated or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: September 25, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–24450 Filed 9–26–01; 10:21 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission held the following additional meeting during the week of September 24, 2001: a closed meeting was held on Tuesday, September 25, 2001, at 10:45 a.m.

Commissioner Unger, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting held on Tuesday, September 25, 2001, was: institution of an administrative proceedings of an enforcement nature.

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 25, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–24451 Filed 9–26–01; 10:21 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act 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 October 1, 2001: closed meetings will be held on Tuesday, October 2, 2001 at 10:30 a.m. and Thursday, October 4, 2001, at 10:00 a.m. and an open meeting will be held on Wednesday, October 3, 2001, in Room 1C30, the William O. Douglas Room, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Tuesday, October 2, 2001 and Thursday, October 4, 2001, will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

The subject matters of the open meeting scheduled for Wednesday, October 3, 2001, will be:

1. The Commission will consider a recommendation to adopt final amendments to its broker-dealer books and records rules, Rule 17a–3 and Rule 17a–4 under the Securities Exchange Act of 1934. The amendments to Rule 17a–3 would clarify and expand recordkeeping requirements with respect to purchase and sale documents, customer records, associated person records, customer complaints, and certain other matters. The amendments to Rule 17a–4 would expand the types of records that broker-dealers must maintain and require broker-dealers to maintain or promptly produce certain records at each office to which those records relate. These amendments are designed to assist securities regulators, particularly state securities regulators, when conducting sales practice examinations of broker-dealers. These amendments were originally proposed on October 22, 1996 (see Exchange Act Release No. 37850, 61 FR 55593 (Oct. 28, 1996)), and were reproposed on October 2, 1998 (see Exchange Act Release No. 40518, 63 FR 54404 (Oct. 9, 1998)).

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.

2. The Commission will consider a recommendation to propose amendments to Rule 17f–4 under the Investment Company Act of 1940, the rule that governs investment companies' use of securities depositories. The proposed amendments would permit additional types of organizations to operate as depositories under the rule, allow depositories to perform additional functions, and expand the types of investment companies that can rely on the rule.

For further information, please contact Hugh P. Lutz, Attorney, Division of Investment Management, at (202) 942–0690.

3. The Commission will consider approving proposed amendments to its debt collection rules to conform to the Debt Collection Act, as amended, and the Federal Claims Collection Standards, as amended; the rule amendments would facilitate offset of unpaid debts against amounts owed by the government to the debtor, and permit administrative garnishment of non-federal wages.

For further information contact, please contact Kenneth H. Hall, Division of Enforcement at (202) 942–4635.

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 25, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–24452 Filed 9–26–01; 10:21 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[REL. NO. 44839/September 24, 2001]

Securities Exchange Act of 1934; Order Regarding Government Securities Reconciliations

Section 36 of the Securities Exchange Act of 1934 (''Exchange Act'') authorizes the Commission, by rule, regulation, or order, to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors. In light of the events of September 11, 2001, and to facilitate the orderly reconciliation of transactions in government securities, the Commission has determined to provide broker-dealers with certain relief under Exchange Act Rules 15c3–1 and 15c3–3. Accordingly,

It is Ordered, pursuant to Section 36 of the Exchange Act, that,

Broker-dealers need not consider the 17th, 18th, 19th, 20th and 21st of September 2001, as business or calendar days for purposes of taking deductions when computing net capital under Rule 15c3–1 or for purposes of determining the amount of cash and/or qualified securities required to be maintained in a ''Special Reserve Bank for the Exclusive Benefit of Customers'' in accordance with the formula set forth in Exhibit A to Rule 15c3–3 arising from aged fail transactions in government securities and unresolved reconciliation differences with accounts or clearing corporations or depositories involving government securities.

It is Further Ordered, That

Broker-dealers subject to paragraph (e) of Rule 15c3–3 that must maintain with a bank a ''Special Reserve Bank Account for the Exclusive Benefit of Customers'' and perform the computation specified in paragraph (e)(1) of Rule 15c3–3 as of Friday, September 21, 2001, need not deposit until 1:00 pm on Tuesday, September 25, 2001, the amount of cash and/or qualified securities required to be maintained in such an account, rather than one hour after the opening of banking business on that day.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–24329 Filed 9–27–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release 34–44831; File No. 600–22]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Order Approving a Request for an Extension of Temporary Registration as a Clearing Agency

September 21, 2001.

Pursuant to Section 19(a) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 24, 2001, MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') an application requesting that the Commission grant MBSCC full registration as a clearing agency or in the alternative extend MBSCC's temporary registration as a clearing agency until such time as the Commission is able to grant MBSCC permanent registration.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to extend MBSCC's temporary registration as a clearing agency through March 31, 2002.

On February 2, 1987, pursuant to Sections 17A(b) and 19(a) of the Act [3] and Rule 17Ab2–1 promulgated thereunder,[4] the Commission granted MBSCC registration as a clearing agency on a temporary basis for a period of eighteen months.[5] The Commission subsequently has extended MBSCC's registration through September 30, 2001.[6]

The Government Securities Clearing Corporation (''GSCC''), the Emerging Market Clearing Corporation (''EMCC''), and MBSCC are currently taking steps toward the integration of GSCC, EMCC, and MBSCC and the acquisition of these clearing agencies by The Depository Trust and Clearing Corporation. In order to have time to study the affect of the acquisition and integration on MBSCC's governance and organizational structure, the Commission is extending MBSCC's registration as a clearing agency on a temporary basis through March 31, 2002.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or institution proceedings to determine whether registration should be denied in accordance with Section 19(a)(1) of the Act.[7] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the amended application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. All submissions should refer to File No. 600–22 and should be submitted by October 19, 2001.

It Is Therefore Ordered that MBSCC's temporary registration as a clearing agency (File No. 600–22) be and hereby is extended through March 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24278 Filed 9–27–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(a).

[2] Letter from Jeffrey F. Ingber, Managing Director, General Counsel and Secretary, MBSCC (August 21, 2001).

[3] 15 U.S.C. 78q–1(b) and 78s(a).

[4] 17 CFR 240.17Ab2–1.

[5] Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 3218.

[6] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29357; 27079 (July 31, 1989), 54 FR 34212; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994), 59 FR 67743; 37372 (June 26, 1996), 61 FR 35281; 38784 (June 27, 1997), 62 FR 36587; 39776 (March 20, 1998), 63 FR 14740; 41211 (March 24, 1999), 64 FR 15854; 42568 (March 23, 2000), 65 FR 16980; and 44089 (March 21, 2001), 66 FR 1691.

[7] 15 U.S.C. 78s(a)(1).

[8] 17 CFR 200.30–3(a)(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44830; File No. SR–PCX–2001–37]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Changes in Marketing Fees

September 21, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 30, 2001, the Pacific Exchange, Inc. (''PCX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items the PCX has prepared. 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 PCX proposes to change the amount of the marketing fee that it currently imposes on options transactions. A copy of the proposed new schedule of fees is available at the PCX and at the Commission. The PCX also proposes to rebate excess marketing fees on a monthly rather than a quarterly basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of the statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The PCX currently collects a marketing fee of $0.40 per market maker contract in equity options traded on the PCX.[3] Trades between market makers, including trades between market makers and Lead Market Makers (''LMMs'') are not subject to the marketing fee.

The PCX segregates the funds by trading post and makes the funds available to LMMs for their use in attracting orders in the options traded at the posts. The LMMs are obligated to account to the PCX for the use that they make of the funds. The LMMs, and not the PCX, make all determinations concerning the amount that they may pay for orders, as well as the types, sizes, and other factors relating to orders that qualify for payment. The PCX provides administrative support to the LMMs, keeping track of the number of qualified orders each firm directs to the PCX and making the necessary debits and credits to the accounts of the LMMs and member firms.

The PCX periodically rebates to PCX market makers the marketing fees that the LMMs have not paid to order flow

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 43290 (September 13, 2000), 65 FR 57213 (September 21, 2000) (order approving SR–PCX–00–30).

providers.[4] The amount refunded to each market maker is based on the percentage of the total marketing fees that the market maker paid at each trading post during the rebate period. Currently, the PCX rebates excess marketing fees to PCX market makers on a quarterly basis.

The PCX is proposing to eliminate its current fee of $0.40 per contract and to replace it with new fees, per option issue, as set forth in the PCX's Schedule of Rates. Only the amount of the fee is being changed. The PCX intends to collect the marketing fees set forth in the Schedule of Rates beginning with the September trade month and continuing until further notice.

The PCX is also proposing to change its method of rebating excess marketing fees to market makers. Specifically, the PCX intends to rebate the fees on a monthly, rather than quarterly, basis.[5]

2. Basis

The PCX believes that the proposed rule change is consistent with Section 6(b) of the Act.[6] The PCX believes that the proposal has been designed to provide for the equitable allocation of dues, fees and other charges among its members and other persons using its facilities, and therefore furthers the objectives of Section 6(b)(4) of the Act.[7] The PCX also believes that its proposed change with respect to the rebating of excess marketing fees has been designed to facilitate transactions in securities and to promote just and equitable principles of trade, thereby furthering the objectives of Section 6(b)(5) of the Act.[8]

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The PCX received eleven written comment letters and e-mails on the proposal.[9] Generally, these commenters maintained that the proposal should not be adopted because it would impair the quality of the PCX's markets by reducing depth and liquidity;[10] would raise antitrust concerns;[11] would adversely impact options prices;[12] would be difficult to detect or prevent an LMM's misuse of funds;[13] would constitute an improper delegation of authority to private parties;[14] would subject the PCX to litigation;[15] and, generally, would be unfair.[16]

The PCX believes that the vast majority of these concerns were addressed and resolved in the Commission's order approving the proposal of the International Securities Exchange (''ISE'') concerning payment for order flow.[17] The PCX believes that the PCX's fee change proposal, like the ISE's proposal, is ''a reasonable competitive response * * * to the adoption of similar payment-for-order-flow programs on other exchanges.'' [18] The PCX contends that, because its proposal involves marketing fees that are set on a per issue basis, in amounts ranging from $0 to $1.00 per contract, it is substantially similar to the program of the Philadelphia Stock Exchange (''Phlx'') whereby the Phlx imposes a $1.00 fee in certain issues (*i.e.,* the ''Top 120 Options on the Phlx'') and $0 in others.[19]

The PCX believes that its proposed rule change is reasonable and equitable because, like the ISE's payment for order flow program, its fee has been ''designed to enable the Exchange to compete with other markets in attracting options business.'' [20] In this regard, the PCX asserts that it needs greater flexibility in its marketing fee structure in order to compete effectively with the other options exchanges.[21] According to the PCX, while payment for order flow fees may be unaffordable to some market makers, the Commission has found that ''the determination to impose them is a business decision legitimately made by the Exchange in assessing the costs that must be assumed if it is to remain competitive as a market center.'' [22] The PCX also noted that, under its proposal, no distinctions are made among PCX members with respect to the amounts that they must pay.

The PCX also noted its disagreement with the contention of certain commenters [23] that the proposal would involve an improper delegation of authority from the PCX to private parties. The PCX asserted that, although it considered suggestions and other input from the PCX membership on the proposed rate schedule, it also considered objective data [24] and ultimately made the final determination itself as to the specific fees to be charged per issue by virtue of this rule filing. With regard to the antitrust concerns raised by some of the commenters, the PCX noted that it has consulted with its legal counsel on antitrust issues and concluded that the proposal is consistent with the antitrust laws.

As to the PCX's ability to detect and prevent an LMM's possible misuse of funds, the PCX cited to the Commission's order approving the ISE's payment for order flow program, in which the Commission stated that it ''expects [that] the ISE, in fulfillment of its self-regulatory function, will be alert to any inappropriate expenditure of such funds, in the service of particular members, or for use of these funds to

[4] *See* Securities Exchange Act Release No. 44071 (March 13, 2001), 66 FR 15939 (March 21, 2001) (SR–PCX–01–08).

[5] Under the current quarterly rebate program, the PCX would issue a rebate for the quarterly period that includes the July, August, and September trade months. During the transition to monthly rebates, the PCX anticipates that it would rebate the excess funds that were collected for the July and August trade months, and thereafter begin administering the rebates on a monthly basis.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78f(b)(5).

[9] These included the following: letter from Karim Tahawi (and other PCX market makers) to the PCX Board of Governors, dated July 23, 2001 (''Tahawi letter''); letter from David B. Bayless, Morrison & Foerster LLP, to the PCX Board of Governors, dated July 23, 2001 (''Bayless letter''); letter from Joel Greenberg, Susquehanna International Group, to Thomas E. Connaghan, PCX, dated August 9, 2001 (''Greenberg letter''); letter from Paul Liang, PCX Lessors Association, to the PCX Board of Governors (undated) (''Liang letter''); letter from the Pacific Exchange Market Maker Association to the PCX Board of Governors, dated August 14, 2001 (''PEMMA letter''); e-mail from Richard Cabanes, PCX market maker, to Stephen Edman, PCX, dated August 14, 2001 (''Cabanes e-mail''); e-mail from Jamison Strofs, PCX market maker, to Stephen Edman, PCX, dated August 15, 2001 (''Strofs e-mail''); e-mail from Mark Cormier, PCX market maker, to the PCX Rates and Charges Committee, dated August 15, 2001 (''Cormier e-mail''); e-mail from Mark Cormier, Pacific Research and Trading (''PRT''), to the PCX Rates and Charges Committee, dated August 15, 2001 (''PRT e-mail''); letter from Mark Cormier, PCX market maker, to the PCX Board of Governors (undated) (''Cormier letter''); e-mail from Ronald Chin to Mike King, PCX, dated August 22, 2001 (''Chin e-mail'').

[10] Tahawi letter; Bayless letter; Liang letter; Carbanes letter; Strofs letter; Cormier e-mail; PRT e-mail; Cormier letter.

[11] Tahawi letter; Bayless letter; Greenberg letter; PEMMA letter; PRT letter; Cormier letter.

[12] Bayless letter; Liang letter.

[13] Bayless letter; PEMMA letter.

[14] Greenberg letter; PEMMA letter.

[15] Chin e-mail.

[16] Bayless letter.

[17] *See* Securities Exchange Act Release No. 43833 (January 10, 2001), 66 FR 7822 (January 25, 2001) (''ISE Release'').

[18] *Id.*

[19] *See* Securities Exchange Act Release No. 43177 (August 18, 2001), 65 FR 54330 (August 25, 2000).

[20] ISE Release, *supra.*

[21] The PCX added that, in the ISE Release, the Commission stated that ''the U.S. options markets are in the midst of profound and dynamic structural change, resulting from the intense competition for options order flow.'' ISE Release, *supra.*

[22] *Id.*

[23] Greenberg letter; PEMMA letter.

[24] According to the PCX, this data included trading volume per issue, PCX market share per issue, disposition of previous marketing fees collected, relative size of each trading crowd, and other such information.

encourage trades on other exchanges.'' [25]

Finally, in support of its position, the PCX included the following quote from the Commission's order approving the ISE's payment for order flow proposal:

> Payment for order flow assumes many different forms and guises—as numerous as the many different kinds of incentives granted to order flow providers to induce them to send their business to them. Without more, this form of payment or incentive—however objectionable to some—cannot be said to be in itself inconsistent with the Act while other forms are accepted as consistent with the Act. In this context, the ISE proposal cannot be said to constitute an undue burden on competition.[26]

In the light of all of the foregoing, the PCX believes that is proposal is consistent with the Act, the rules thereunder, and the Commission's order approving the ISE's payment for order flow plan.[27]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the PCX has designated the foregoing as a fee change pursuant to Section 19(b)(3)(A) of the Act [28] and Rule 19b–4(f)(2) thereunder,[29] the proposal has become effective immediately upon filing with the Commission. At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–37 and should be submitted by October 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24330 Filed 9–27–01; 8:45 am]

BILLING CODE 8010–01–M

[25] ISE Release, *supra.*

[26] *Id.* (footnotes omitted).

[27] *Id.*

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44829; File No. SR–Phlx–2001–30]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Alternative Wheel Allocation Model

September 21, 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 March 6, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Phlx submitted Amendment No. 1 on May 21, 2001.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes, on a six-month pilot basis, to amend Exchange Options Floor Procedure Advice (''OFPA'') F–24, AUTO–X Contra-Party Participation, to allow specialists, on an issue-by-issue basis, to elect to implement a new order assignment model for contra-side participation in orders delivered via AUTOM and automatically executed via AUTO–X.[4] The proposed order assignment model set forth in new proposed Section (e)(ii) of OFPA F–24 is called the Alternative Wheel Allocation Model (''Model'').

The proposed new rule text is as follows. Proposed new language is in italics.

F–24 AUTO–X Contra-Party Participation (The Wheel)

(a) No change.
(b) No change.
(c) No change.
(d) No change.
(e)*(i)* Wheel Rotation/Assigning Contracts—AUTO–X participation shall be assigned to Wheel Participants on a rotating basis, beginning at a random place on the rotational Wheel each day, from those participants signed-on in that listed option at that time. At a minimum, the Wheel shall rotate and assign contracts depending upon the size of the AUTO-X guarantee, as follows.

1–10 contracts
every 2 contracts;
11–25 contracts
every 5 contracts;
26 and more
every 10 contracts

The Options Committee, or its designees, may approve a Wheel rotation in a size larger than the minimum stated above, if requested by the specialist and Wheel participants. However, the Wheel may not rotate in a size larger than ten contracts.

Each remaining portion shall be successively assigned to individual Wheel Participants on that same basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated May 17, 2001 (''Amendment No. 1''). In Amendment No. 1 the Phlx amended the proposed rule change by deleting rule language which would have set forth a minimum participation percentage of 30% for specialists and a maximum participation percentage of 60% for any single Wheel participant. In addition, in Amendment No. 1 the Phlx further amended its proposal to specify that the ''Review Period,'' during which the specialist and crowd participants may earn Participation Units, will last a maximum of 14 calendar days. Finally, the Phlx corrected several minor typographical errors contained in the original filing. The substance of Amendment No. 1 is incorporated into the description of the proposed rule change in Section II.A., below.

[4] AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually; alternatively, certain orders are eligible for AUTOM's automatic execution feature, AUTO–X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

The specialist shall receive the first execution of the day; thereafter, if four or less ROTs are participating on the Wheel, the specialist shall participate in a normal rotation. However,if an average of five to 15 ROTs have signed-on the Wheel, the specialist shall receive every fifth execution; if an average of 16 or more ROTs have signed-on the Wheel, the specialist shall receive every tenth execution, unless Wheel participation falls below ten participants at any time, then the specialist shall automatically participate in a normal rotation.

Exception to the normal rotation: With the unanimous consent of Wheel participants in an option and approval of the Options Committee Chairman or his designee, the specialist shall receive an enhanced participation substantially equivalent to twice the number of contracts as other crowd participants where the Enhanced Specialist Participation of Rule 1014(g)(ii) applies.

The provisions of this clause (e)(i) will not apply under circumstances where clause (e)(ii) applies.

(ii) Alternative Wheel Allocation Model. The Alternative Wheel Allocation Model (the ''Model'') is a method for allocating Wheel participation with respect to certain Eligible Options (as defined below). In general, the Model allocates contracts that comprise AUTO–X during a ''Trading Period'' (as defined below) by taking into account the participation of Wheel Participants in non-Wheel contracts and trade effected during a ''Review Period'' (as defined below) that immediately precedes the Trading Period. The Model allocates contracts for a given Trading Period based on the number of ''Participation Units'' (as defined below) earned by the Wheel Participant during the immediately preceding Review Period.

Participation Units will be awarded to a Wheel Participant based on a weighted ''Ratio'' (as defined below) of the sum of such Wheel Participant's in-person, non-Wheel agency contracts traded and the number of such Wheel Participant's in–person, non-Wheel agency trades executed during the Review Period, divided by the sum of all in-person, non-Wheel agency contracts traded and all in-person, non-Wheel trades executed during the Review Period in the Eligible Option.

The purpose of the Model is to reward liquidity providers by assigning contracts with respect to Auto-X orders in Eligible Options executed during a given Trading Period to each Wheel Participant in a manner that will approximate the product of the Ratio (as defined below) and the number of contracts eligible for allocation on the Wheel.

With respect to any Trading Period, the Ratio for a Wheel Participant with respect to an Eligible Option shall be equal to the sum (expressed as a percentage, rounded to the nearest 1 percent) of A and B, where:

A = 80% of (a) the number of Eligible Contracts effected by the Wheel Participants in the Eligible Option during the previous Review Period, divided by (b) the number of all Eligible Contracts effected by all Wheel Participants in the Eligible Option during the previous Review Period.

And

B = 20% of (a) the number of non-Wheel agency trades effected by the Participant in the Eligible Option during the previous Review Period, divided by (b) the number of all non-Wheel trades effected by all Wheel Participants in the Eligible Option during the previous Review Period.

Once a Wheel Participant has signed onto the Wheel, he will be assigned contracts on the Wheel until his awarded number of Participant Units has been met. This may mean that multiple orders (or an order and a part of this succeeding order) will be assigned to the same Wheel Participant. To understand how the AUTO–X orders will actually be allocated to Wheel Participants to meet those percentages, one must understand the concepts of ''Participants Units'' and ''Wedges.'' A Participants Unit is 1% of the Wheel and often may be equal to one contract. The Options Committee may determine the number of contracts that make up one Participants Unit. Each Wheel Participant for that option class, regardless of whether such Wheel Participant executed any agency trades in Eligible Contracts during the immediately prior Review Period, is entitled to be assigned at least one Participation Unit on every revolution of the Wheel. For example, if a Participation Unit equals one contract then there will be 100 AUTO–X contracts that will be assigned to Wheel Participants on every revolution of the Wheel. If a Participation Unit is defined as five contracts then there will be 500 AUTO–X contracts assigned to the Wheel Participants before the Wheel completes one revolution. Generally, the Wheel will consist of the number of Participation Units replicating the cumulative percentage of all Wheel Participants signed onto the system who have been awarded Participation Units based on agency trades in Eligible Contracts during the immediately prior Review Period, plus one Participation Unit for each market-maker that has not been awarded a specific number of Participation Units.

A ''Wedge'' is a maximum number of Participation Units that a Wheel Participant may be consecutively assigned at any one time on the Wheel. The purpose of the Wedge is to break up the distribution of contracts into smaller groupings to reduce the exposure of any one Wheel Participation to market risk. If the size of the Wedge is smaller than the number of Participation Units to which a particular Wheel Participation is entitled, then that Wheel Participation would receive one or more additional assignments during one revolution of the Wheel.

The decision to participation in the Model pilot (as opposed to the Wheel allocation set forth in Section (e)(i) of this Advice) shall be made by the specialist on an issue-by-issue basis. However, once the specialist determines to participate in the Model pilot, such participation shall be effective until the end of the review period as set forth in Section (f) of this Advice, unless the Options Committee determines to permit the specialist, on an issue-by-issue, to opt out the pilot program.

Definitions: As used in this clause (e)(ii), the following terms have the meanings set forth below:

''Eligible Contracts'' means contracts comprising all in-person, non-Wheel agency trades in an Eligible Option effected during a given Review Period, provided that, except as otherwise determined by the Options Committee, in the event that the percentage that any individual non-Wheel agency trade effected by a Wheel Participation would exceed in size 5% of the total non-Wheel agency contracts effected during that Review Period (the ''Period Total''), then the number of Eligible Contracts attributable to such trade shall be counted, for purposes of calculating the Ratio, as the number of contracts equal to 5% of the Period Total.

''Eligible Options'' means those multiply listed equity options designated for inclusion in the Model by the specialist on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee will notify the membership of each class of options that is subject to the Model.

A ''Participation Unit'' is 1% of the Wheel and often may be equal to one contract. The Options Committee may determine the number of contracts that make up one Participation Unit.

''Period Total'' means the number of all Eligible Contracts effected by all Wheel Participants in the Eligible Option during the Relevant Review Period.

''Review Period'' means a period (not to exceed 14 calendar days) determined by the Options Committee that commences on the trading day following the final day of the proceeding Review Period. The Ratio for a Wheel Participation for an Eligible Option for each Trading Period will be based upon the non-Wheel (in-crown) trading activity in the Eligible Option during the Review Period that ends immediately prior to the beginning of the Trading Period.

''Trading Period'' means a period (not to exceed 14 calendar days) determined by the Options Committee that commences on the trading day following the final day of the preceding Trading Period.

A ''Wedge'' is the maximum number of Participation Units that a Wheel Participant may be consecutively assigned at any time on the Wheel. Because the size of the Wedge may be smaller than the number of contracts to which a particular Wheel Participant is entitled during one revolution of the Wheel, that Wheel Participant will receive more than one turn during one revolution of the Wheel. The Wedge size will be variable, at the discretion of the Options Committee and may be different for different option classes or the same for all option classes.

''Wheel Participant''—for the purpose of determining the Ratio and number of Participation Units awarded for a given Trading Period, a Wheel Participant is deemed to be a firm, regardless of which individual member of that firm has been designated to trade in a particular crowd during a particular trading day. In situations where such a firm has more than one crowd participant at one time, the Ratio and number of Participation Units would be calculated as through all such crowd participants that are members of the same firm are trading as the beneficial owner of one single account.

(f) The provisions of section (e) above will be reviewed and evaluated by the Options Committee as needed, but not less frequently than on a six month basis, to determine the effectiveness of the program to achieve its stated purpose as well as to resolve specific issues, including, without limitation, continued eligibility of an option on an issue-by-issue basis.

Fine Schedule

F–24 Fine not applicable, except paragraph (c). Matters subject to review by the Business Conduct Committee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to institute a new method for assigning contra-side participation in orders delivered through AUTOM and automatically executed on AUTO–X via the Exchange's ''Wheel.'' [5]

Currently, OFPA F–24 sets forth the method of allocation of trades executed via AUTO–X among specialists and ROTS [6] signed on to the Wheel in a particular option (''Wheel Participants''). Under the current rule, AUTO–X participation is assigned to Wheel Participants on a rotating basis, beginning at a random place on the Wheel each day. The Wheel signs contracts depending upon the size of the AUTO–X guarantee, based on (1) the number of contracts to be assigned, and (2) the number of Wheel Participants signed on the Wheel for a given option.

The current method of assignment does not take into account, or reward, the overall level of liquidity in respect of non-Wheel agency contracts and trades provided by a Wheel Participant in a given option. The Model is intended, primarily, to enhance incentives for Wheel Participants to quote competitively [7] and to reward such Wheel Participants by assigning contracts with respect to AUTO–X orders based on the number of in-person, non-Wheel agency contracts and trades (on a weighted basis as set forth in detail below) effected by such Wheel Participant during a given Review Period (as defined below).[8] The Exchange believes that the Model will encourage Phlx specialists and ROTs in Eligible Options (as defined below) to quote more aggressively because the potential rewards therefore will be increased.

The Exchange notes that because this proposal is primarily descriptive in nature, the Fine Schedule applicable to OFPA F–24 will remain limited to member violations of the sign-on requirements of Section (c). To the extent a member may violate any other provision of OFPA F–24, such matters are subject to review by the Business Conduct Committee.[9]

(a) *Definitions.* For purposes of this proposed rule, the following definitions apply:

• ''Eligible Contracts'' means contracts comprising all in-person, non-Wheel agency trades in an Eligible Option effected during a given Review Period, provided that, except as otherwise determined by the Options Committee, in the event that the percentage that any individual non-Wheel agency trade effected by a Wheel Participant would exceed in size 5% of the total non-Wheel agency contracts effected during that Review Period (the ''Period Total''), then the number of Eligible Contracts attributable to such trade shall be counted, for purposes of calculating the Ratio, as the number of

[5] The ''Wheel'' is a feature of AUTOM that provides an automated mechanism for assigning specialists and Registered Options Traders (''ROTs'') signed on the Wheel for a given listed option, on a rotating basis, as contra-side participants to trades executed via AUTO–X. *See* Exchange Rule 1080(g).

[6] A ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Exchange Rule 1014(b).

[7] The Exchange notes that the Commission has directed that the options markets adopt new, or amend existing, rules concerning its automated quotation and execution systems which substantially enhance incentives to quote competitively and reduce disincentives for market participants to act competitively. *See* Section IV .B.h.(i), *Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions,* Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3–10282 (the ''Order'').

[8] The Exchange represents that this is not intended to be interpreted to imply that the current Wheel model fails to encourage competition among Wheel Participants. The Exchange states that, under the current system, if a ROT wishes to participate in more Wheel contracts, he or she may place an order on the limit order book that improves the Phlx market. This causes the Wheel to stop, and incoming executable AUTOM orders that would otherwise be allocated on the Wheel would be executed manually against the booked order until it is exhausted (*see* Exchange Rule 1080(c)). The Exchange represents that this feature, which creates strong incentives for price improvement, would be retained under the proposed Model.

[9] Telephone conversation between Richard S. Rudolph, Counsel, Phlx, and Geoffrey Pemble, Attorney, Division of Market Regulation, Commission (June 26, 2001).

contracts equal to 5% of the Period Total.[10]

• ''Eligible Options'' means those multiply listed equity options designated for inclusion in the Model by the specialist on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee will notify the membership of each class of options that is subject to the Model.

• A ''Participation Unit'' is 1% of the Wheel and often may be equal to one contract. The Options Committee may determine the number of contracts that make up one Participation Unit.

• ''Period Total'' means the number of all Eligible Contracts effected by all Wheel Participants in the Eligible Option during the relevant Review Period.

• The ''Ratio'' for a Wheel Participant with respect to an Eligible Option means the sum (expressed as a percentage, rounded to the nearest 1 percent) of A and B, where:

A=80% of (a) the number of Eligible Contracts effected by the Wheel Participant in the Eligible Option during the previous Review Period, divided by (b) the number of all Eligible Contracts effected by all Wheel Participants in the Eligible Option during the previous Review Period;

and

B=20% of (a) the number of non-Wheel agency trades effected by the Participant in the Eligible Option during the previous Review Period, divided by (b) the number of all non-Wheel trades effected by all Wheel Participants in the Eligible Option during the previous Review Record.

• ''Review Period'' means a period (not to exceed 14 calendar days calculated on a rolling basis) determined by the Options Committee, that commences on the trading day following the final day of the preceding Review Period.[11] The Ratio for a Wheel Participant for an Eligible Option for each Trading Period will be based upon the non-Wheel, in-person trading activity in the Eligible Option during the Review Period that ends immediately prior to the beginning of the Trading Period.

• ''Trading Period'' means a period (not to exceed 14 calendar days) determined by the Options Committee that commences on the trading day following the final day of the preceding Trading Period.

• A ''Wedge'' is the maximum number of Participation Units that a Wheel Participant may be consecutively assigned at any one time on the Wheel. Because the size of the Wedge may be smaller than the number of contracts to which a particular Wheel Participant is entitled during one revolution of the Wheel, that Wheel Participant will receive more than one turn during one revolution of the Wheel. The Wedge size will be variable, at the discretion of the Options Committee and may be different for different option classes or the same for all option classes.[12]

• Solely for the purpose of determining the Ratio and number of Participation Units awarded for a given Trading Period, the term ''Wheel Participant'' shall be deemed to include a firm, regardless of which individual member of that firm has been designated to trade in a particular crowd during a particular trading day. In situations where such a firm has more than one crowd participant at one time, the Ratio and number of Participation Units would be calculated as though as such crowd participants that are members of the same firm are trading as the beneficial owner of one single account.[13]

(b) *The Model.* Under the Model, AUTO–X orders in Eligible Options would be assigned to signed-on Wheel Participants according to the percentage of a weighted sum of their in-person, non-Wheel agency contracts and trades in a given option, compared to a weighted sum of all in-person, non-Wheel agency contracts and trades in such an option during the Review Period. Under the Model, on each revolution of the Wheel, each Wheel Participant that is signed-on to the Wheel at the time would be assigned enough contracts so that the percentage of Wheel contracts allocated to such Wheel participant on that revolution of the Wheel will approximate the weighted percentage of agency contracts and trades that he or she executed in-person in that option during the Review Period (except those contracts excluded by the ''5% cap'' set forth in the definition of Eligible Contracts). The Options Committee would determine the duration of the Review Period, which will be calculated on a ''rolling basis'' and will in no event exceed the previous 14 calendar days.[14]

(i) *Participation Units.* During the Trading Period, a Wheel Participant would be assigned contracts on the Wheel for trades executed via AUTO–X based on the number of Participation Units such Wheel Participant attained during the immediately preceding Review Period. The number of Participation Units awarded will be calculated for each Wheel Participant for each option the wheel Participant trades. A new Wheel participant (who did not participate in the immediately previous Review Period) would be entitled to one Participation Unit.

(ii) *Formula Determining Participation Units.* Participation Units (for Wheel Participant ''A'' in this Example) during the preceding Review Period (''trades'' refers to trades in the given Eligible Option) are determined as follows:

[10] The purpose of this ''5% cap'' is to avoid the circumstance in which a Wheel Participant could obtain an unfair advantage over other regular Wheel Participants as a result of a single trade during the Review Period for an extraordinarily large size. In effect, the ''cap'' limits the extent to which very large trades would count as Eligible Contracts to be included in the Period Total.

[11] The Exchange represents that the review period will be set at 14 calendar days for all options classes and that the Options Committee will not vary the term of the review period except in the case of exigent circumstances. Telephone conversation between Richard S. Rudolph, Counsel, Phlx and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission (September 21, 2001).

[12] The purpose of the Wedge is to break up the distribution of contracts into smaller groupings to reduce the exposure of any one Wheel Participant to market risk by limiting the number of contracts that would be consecutively assigned to a given Wheel Participant.

[13] The purpose of this provision is to avoid unduly penalizing a Wheel Participant if an individual associated with such Wheel Participant is absent from the trading crowd during the Review Period, and thus unable to participate in in-person, non-Wheel, agency trades. A firm could substitute a different, qualified individual for the absent individual, and not be penalized for such absence.

[14] The ''rolling basis'' means that the Review Period will be for a duration not to exceed the most recent 14 calendar days. The Options Committee may shorten the Review Period, but in no event shall it exceed 14 calendar days. The purpose of the ''rolling'' 14-day Review Period is to avoid unduly penalizing a Wheel Participant that cannot participate in in-person, non-Wheel agency trades due to absence during the Review Period. The reason for limiting the Review Period to a maximum of 14 calendar days (the Options Committee may determine to shorten the Review Period) is to ensure that the Model does not operate to prevent Wheel Participants from increasing their attained number of Participation Units by entrenching other Wheel Participants who initially have a large number of in-person, non-Wheel agency contracts and trades. A long Review Period could have the effect of ''freezing'' the status quo, thus effectively preventing, or at least delaying, Wheel Participants from increasing their number of Participation Units.

$$(.8)\times\frac{(\#\text{ of Eligible Contracts executed by Wheel Participant "A"})}{(\#\text{ of Eligible Contracts executed by all Wheel Participants})}$$
$$+(.2)\times\frac{(\#\text{ of trades executed by Wheel Participant "A"})}{(\#\text{ of trades executed by all Wheel Participants})}$$
$$=\text{ Number of Participation Units Attained by Wheel Participant "A"}$$

As stated above, the calculation of the number of Participation Units to be attained by a Wheel Participant is based on a weighted Ratio of (a) the number of Eligible Contracts and trades effected by the Wheel Participant in an Eligible Option during the previous Review Period, divided by (b) the number of all Eligible Contracts and trades effected by all Wheel Participants in the Eligible Option during the previous Review Period. The number of Eligible Contracts executed during the Review Period would be weighted as 80% of the Ratio, and the number of trades effected during the Review Period would be weighted as 20% of the Ratio.

The number of Participation Units to be attained by a Wheel Participant in a given option would be calculated as follows for a given Review Period.

Example—How Participation Units Are Calculated

In this example, assume three Wheel Participants attained Participation Units during the Review Period, and that no single trade accounted for greater than 5% of the Period Total.

Wheel Participant	Review Period	% of Participation Units in Following Trading Period
A	5000 Eligible Contracts 40 Agency, non-Wheel Trades	$.8\ \frac{5{,}000}{(10{,}000)} + .2\frac{40}{(100)}$ .8 (.5) + .2 (.4) .40 + .08 = 48%
B	3,000 Eligible Contracts 25 Agency, non-Wheel Trades	$.8\ \frac{3{,}000}{(10{,}000)} + .2\frac{25}{(100)}$ .8 (.3) + .2 (.25) .24 + .05 = 29%
C	2000 Eligible Contracts 35 Agency, non-Wheel Trades	$.8\ \frac{2{,}000}{(10{,}000)} + .2\frac{35}{(100)}$ .8 (.2) + .2 (.35) .16 + .07 = 23%
Total	10,000 Eligible Contracts 100 Trades	48% + 29% + 23% = 100%

(c) *Discussion.* Once a Wheel Participant has signed onto the Wheel, he or she will be assigned contracts on the Wheel during each revolution of the Wheel until his or her awarded number of Participation Units has been approximated. This may mean that multiple orders (or an order and a part of the succeeding order) will be assigned to the same Wheel Participant.

To understand how the AUTO–X orders will be allocated to Wheel Participants to meet those percentages, one must understand the concepts of ''Participation Units'' and ''Wedges.'' A

''Participation Unit'' is 1% of the Wheel and often may be equal to one contract. The Options Committee may determine the number of contracts that make up one Participation Unit. For example, if a Participation Unit equals one contract then there will be 100 AUTO–X contracts that will be assigned to Wheel Participants on every revolution of the Wheel. If a Participation Unit is defined as five contracts then there will be 500 AUTO–X contracts assigned to the Wheel Participants on every revolution of the Wheel.

Each Wheel Participant for a given option, regardless of whether such Wheel Participant executed any agency trades in Eligible Contracts during the immediately prior Review Period, is entitled to be assigned at least one Participation Unit on every revolution of the Wheel. Generally, the Wheel will consist of the number of Participation Units replicating the cumulative percentage of all Wheel Participants signed onto the system who have been awarded Participation Units based on agency trades in Eligible Contracts during the immediately prior Review Period, plus one Participation Unit for each Wheel Participant that has not been awarded a specific number of Participation Units.[15]

A''Wedge'' is the maximum number of Participation Units that a Wheel Participant may be consecutively assigned at any one time on the Wheel. The purpose of the Wedge is to break up the distribution of contracts into smaller groupings to reduce the exposure of any one Wheel Participant to market risk. If the size of the Wedge is smaller than the number of Participation Units to which a particular Wheel Participant is entitled, then that Wheel Participant would receive one or more additional assignments during one revolution of the Wheel.

(i) *Miscellaneous Aspects of the Operation of the Model.* a. *5% Cap for Large Trades.* The proposed rule provides that, in the event that the percentage that any individual non-Wheel agency trade effected by a Wheel Participant would exceed in size 5% of the Period total, then the number of Eligible Contracts attributable to such trade shall be counted, for purposes of calculating the Ratio, as the number of contracts equal to 5% of the Period Total. The purpose of this provision is to avoid the circumstance in which a Wheel Participant could obtain an unfair advantage in Participation Units over other regular Wheel Participants as a result of a single trade during the Review Period for an extraordinarily large size. The Exchange believes that this limitation on the number of contracts in any single transaction counted towards the Period Total, combined with the weighted calculation of total number of trades in Eligible Options during the Review Period, enhances incentives for specialists and ROTs to quote competitively by rewarding them not only for the number of Eligible Contracts traded the review Period, but also by taking into account the number of trades effected in Eligible Options during the Review Period.

b. *Specialist Election.* The proposed rule provides that the decision to participate in the Model pilot (as opposed to the Wheel allocation set forth in Section (e)(i) of the current OFPA) shall be made by the specialist on an issue-by-issue basis.[16] However, once the specialist determines to participate in the Model pilot, such participation shall be effective until the end of the Options Committee's periodic review described in Section (f) of the proposed rule, unless the Options Committee determines to permit the specialist, on an issue-by-issue basis, to opt out of the pilot program.

c. *Options Committee Review.* The proposed rule would require the Options Committee to review and evaluate the Model as needed, but not less frequently than on a six-month basis, to determine the effectiveness of the program to achieve its stated purpose as well as to resolve specific issues, including, without limitation, continued eligibility of an option on an issue-by-issues, including,without limitation, continued eligibility of an option on an issue-by-issue basis. The purpose of this provision is to enable the Options Committee to continually evaluate the effectiveness of the Model and to determine whether the Model is assigning contracts on the Wheel in proportion to a Wheel Participant's in-person, non-Wheel agency contracts traded during the Review Period. This provision would also enable the Options Committee to effect changes as needed in the Model that would further its stated purpose.

It is the Exchange's intent to implement the Model at or around the same time as two other proposals, specifically proposing (i) ROT access to the limit order book through electronic interface with AUTOM; and (ii) broker-dealer access to AUTOM.[17]

2. Statutory Basis

The Exchange believes that the implementation of the pilot program for the Model will result in AUTO-X contra-party participation that will essentially approximate a Wheel Participant's percentage of in-person, non-Wheel agency contracts executed, and number of trades effected, in options in which such Wheel participant is assigned. The Exchange further believes that such implementation will result in a higher Wheel Participation for those specialists and ROTs who are most active in providing the services that specialists and ROTs are expected to perform, *i.e.,* consistently providing liquidity in agency trades in the options in which such specialists and ROTs are assigned.

For these reasons, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[18] in general, and furthers the objectives of Section 6(b)(5)[19] in particular, in that it is designed to perfect the mechanism of a free and open market and a national market

[15] In the event that a new Wheel Participant signs onto the Wheel and is assigned one Participation Unit (representing 1% of the Wheel), the remaining 99 Participation Units would be allocated among all Wheel Participants that had attained Participation Units during the previous Review Period on a pro-rata basis according to their percentage of Participation Units attained. In the event that two new Wheel Participants sign onto the Wheel and each is assigned one Participation Unit (representing a total of 2% of the Wheel), the remaining 98 Participation Units would be allocated among all Wheel Participants that had attained Participation Units during the previous Review Period in the same fashion, etc.

In the event that a Wheel Participant that has attained Participation Units during the previous Review Period is not signed-on to the Wheel during a portion of the Trading Period, the Wheel will consist of the number of Participation Units remaining while such Wheel Participant is not signed-on to the Wheel. For example, if a Wheel Participant attains 7 Participation Units during the previous Review Period and is not signed-on during a portion of the Trading Period, the Wheel will consist of 93 Participation Units. In this case, a full revolution of the Wheel would occur every 93 contracts.

[16] The Exchange has represented that it will amend the proposal to clarify that the decision by the specialist to participate in the Model pilot is subject to the approval of the Options Committee. Telephone conversation between Richard S. Rudolph, Counsel, Phlx, and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission (September 21, 2001).

[17] The Exchange represents that the proposal regarding broker-dealer access to AUTOM was filed as SR–Phlx–2001–40 on May 2, 2001 and is pending with the Commission. The Exchange also represents that the proposal regarding ROT access to the limit order book has not yet been filed with the Commission. The Exchange will notify all members on the Options Floor when it has completed the development of the systems necessary to implement these changes, and/or deployed such systems on the Options Floor. This provision is included in the proposed rule change because, in the event that the Commission approves this proposal, the Exchange's ability to deploy such systems may not coincide with the effective date of the rule.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

system, protect investors and the public interest and promote just and equitable principles of trade by enhancing incentives for Exchange specialists and ROTs to quote competitively by assigning AUTO-X contra-side participation in proportion to their in-person, non-Wheel agency contracts traded and number of trades effected.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR–Phlx–2001–30 and should be submitted by October 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24280 Filed 9–27–01; 8:45 am]

BILLING CODE 8010–01–M

[20] 17 CFR 200.30–3(a)(12)

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3366]

Commonwealth of Virginia

As a result of the President's major disaster declaration on September 21, 2001, I find that Arlington County in the Commonwealth of Virginia constitutes a disaster area due to damages caused by explosions and fires occurring on September 11, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 21, 2001 and for economic injury until the close of business on June 21, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303–1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Fairfax County and the Independent City of Alexandria in the Commonwealth of Virginia; the District of Columbia; and Montgomery County in the State of Maryland.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.750
Homeowners Without Credit Available Elsewhere	3.375
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 336604. For economic injury the number is 9M8300 for Virginia; 9M8400 for the District of Columbia; and 9M8500 for Maryland.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 24, 2001.

Herbert L. Mitchell,

Associate Administrator For Disaster Assistance.

[FR Doc. 01–24402 Filed 9–27–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3790 TE]

Culturally Significant Objects Imported for Exhibition Determinations: ''Splendid Isolation: The Art of Easter Island''

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 et seq.), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended by Delegation of Authority No. 236–3 of August 28, 2000 (65 FR 53795), and Delegation of Authority dated June 29, 2001, I hereby determine that the objects to be included in the exhibit, ''Splendid Isolation: The Art of Easter Island,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about December 12, 2001, to on or about August 4, 2002, and other possible venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: September 24, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 01–24393 Filed 9–27–01; 8:45 am]

BILLING CODE 4710–08–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Pub. L. 104–13; Submission for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for Office of Management and Budget (OMB) Review; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–2523.

Comments should be sent to OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority no later than (October 29, 2001).

SPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Power Distributors Monthly and Annual Reports to TVA.

Type of Affected Public: Business or local government.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 2,054.

Estimated Total Annual Burden Hours: 3,792

Estimated Average Burden Hours Per Response: 18.

Need For and Use of Information: This information collection supplies TVA with financial and accounting information to help ensure that electric power produced by TVA is sold to consumers at rates which are as low as feasible.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations Information Services.

[FR Doc. 01–24288 Filed 9–27–01; 8:45 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Trade and Environment Policy Advisory Committee (TEPAC)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the October 11, 2001, meeting of the Trade and Environment Policy Advisory Committee will be held from 8 a.m. to 10:30 a.m. the Meeting will be closed to the public from 8 a.m. to 10 a.m. and open to the public from 10 a.m. to 10:30 a.m.

SUMMARY: The Trade and Environment Policy Advisory Committee will hold a meeting on October 11, 2001, from 8 a.m. to 10:30 a.m. The meeting will be closed to the public from 8 a.m. to 10 a.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meting will be open to the public and press from 10 a.m. to 10:30 a.m., when trade policy issues will be discussed. Attendance during this part of the meting is for observation only. Individuals who are not members of the committee will not be invited to comment.

DATES: The meeting is scheduled for October 11, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held at the USTR ANNEX Building in Conference Rooms 1 and 2, located at 1724 F Street, NW., Washington, DC, unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Ginini, Office of the United States Trade Representative, (202) 395–6120.

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–24334 Filed 9–27–01; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the President's Advisory Committee on Trade Policy and Negotiations (ACTPN)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the October 31, 2001, meeting of the President's Advisory Committee on Trade Policy and Negotiations will be held from 1:30 p.m. to 4 p.m. The meeting will be closed to the public from 1:30 p.m. to 3:30 p.m. and open to the public from 3:30 p.m. to 4 p.m.

SUMMARY: The President's Advisory Committee on Trade Policy and Negotiations will hold a meeting on October 31, 2001, from 1:30 p.m. to 4 p.m. The meeting will be opened to the public from 3:30 p.m. to 4 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meeting will be open to the public and press from 3:30 p.m. to 4 p.m., when trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

DATES: The meeting is scheduled for October 31, 2001, unless otehrwise notified.

ADDRESSES: The meeting will be held at the USTR ANNEX Building in Conference Room 1 and 2, located at 1724 F Street, NW., Washington, DC unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Gianini, Office of the

United States Trade Representative, (202) 395–6120.

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–24333 Filed 9–27–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAa is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from October 10–12, 2001, from 8 a.m. to 4 p.m. each day.

ADDRESSES: The meeting will be held at the Department of Transportation, NASSIF Building, 400 7th Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Harrell, Executive Director, ATPAC, Terminal and En Route Procedures Division, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3725.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held October 10 through October 12, 2001, at the Department of Transportation, NASSIF Building, 400 7th Street, SW., Washington, DC 20590.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than October 1, 2001. The next quarterly meeting of the FAA ATPAC is planned to be held from October 10–12, 2001, in Washington, DC.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on September 18, 2001.

David W. Madison,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 01–23778 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Planned Establishment of the Raleigh-Durham International Airport Class B Airspace Area, NC; and Revocation of the Raleigh-Durham International Airport Class C Airspace Area, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meetings.

SUMMARY: This notice announces two fact-finding informal airspace meetings to solicit information from airspace users, and others, concerning a plan to establish a Class B airspace area at the Raleigh-Durham International Airport, NC. The purpose of these meetings is to provide interested parties an opportunity to present views, recommendations, and comments on the plan to establish the Raleigh-Durham, NC, Class B airspace area. All comments received during these meetings will be considered prior to any revision or issuance of a notice of proposed rulemaking.

TIMES AND DATES: *Meetings.* These informal airspace meetings will be held on Tuesday, December 4, 2001, at 7 p.m.; and Wednesday, December 5, 2001, at 7 p.m. Comments must be received on or before January 4, 2002.

ADDRESSES: Both meetings will be held at the Raleigh-Durham Airport Authority, Room 100, 1000 Trade Drive, at the Raleigh-Durham International Airport, NC.

Comments: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

FOR FURTHER INFORMATION CONTACT: Richard A. Belmonte, Manager, Raleigh-Durham Airport Traffic Control Tower, Raleigh-Durham International Airport, 1000 Sawyer Circle, Raleigh, NC 27623; telephone (919) 840–5502.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) These meetings will be informal in nature and will be conducted by one or more representatives of the FAA Southern Region. A representative from the FAA will present a formal briefing on the proposed Class B airspace area. Each participant will be given an opportunity to deliver comments or make a presentation at the meetings. Only comments concerning the proposal to establish a Class B airspace area will be accepted.

(b) These meetings will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the FAA panel will be asked to sign in and estimate the amount of time needed for such presentation. This will permit the panel to allocate an appropriate amount of time for each presenter.

(d) These meetings will not be adjourned until everyone on the list has had an opportunity to address the panel.

(e) Position papers or other handout material relating to the substance of these meetings will be accepted. Participants wishing to submit handout material should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(f) These meetings will not be formally recorded.

Agenda for the Meetings

—Presentation of Meeting Procedures.
—Presentation on the planned Class B airspace area at Raleight-Durham, NC.
—Public Presentations and Discussions.
—Closing Comments.

Issued in Washington, DC, on September 24, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–24428 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplemental Environmental Impact Statement: City of Charlottesville and Albemarle County, Virginia

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Intent.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public of its intent to prepare a supplemental Environmental Impact Statement (EIS) in cooperation with the Virginia Department of Transportation (VDOT) to more thoroughly examine the impacts associated with the selected bypass alternative (Alternative 10) from the Route 29 Corridor Study final EIS and the subsequent changes to the termini on the South Fork Rivanna River Reservoir and archeological resources not previously accounted for.

FOR FURTHER INFORMATION CONTACT: Edward Sundra, Senior Environmental Specialist, Federal Highway Administration, Post Office Box 10249, Richmond, Virginia 23240–0249, Telephone 804–775–3338.

SUPPLEMENTARY INFORMATION: In the late-1980s, an EIS was initiated to address congestion on Route 29 through the City of Charlottesville and Albemarle County in central Virginia. In 1993, a Record of Decision (ROD) was issued by FHWA which identified a series of improvements to address the project's purpose and need. This series of improvements included a bypass alternative known as Alternative 10 located west of existing Route 29. Shortly after issuing the ROD, changes were requested by the localities to the termini of the bypass. To address these changes, an Environmental Assessment was prepared which concluded that a supplemental EIS was not required. In 1996, a Reevaluation was initiated to address design changes to the bypass recommended by a local design advisory committee as well as other issues that arose since the EA. In 1998, litigation was brought against the project by the Southern Environmental Law Center on behalf of the Piedmont Environmental Council and Sierra Club alleging violations of the National Environmental Policy Act and section 4(f) of the U.S. Department of Transportation Act of 1966. On March 13, 2000, FHWA completed its Reevaluation and issued a revised ROD documenting the changes to the selected alternative and the mitigation for the bypass. In August of 2001, a judge for the United States District Court in the City of Charlottesville rendered his decision on the litigation granting the plaintiffs motion for summary judgment in part. As a result, the Court enjoined further action on the project until a supplemental EIS was completed which addressed the issues enumerated in the judge's memorandum opinion—impacts to the South Fork Rivanna River Reservoir and archeological resources which had not been previously considered. On the other eight counts raised by the plaintiffs, the judge granted the defendants' motion for summary judgment concluding that FHWA adequately considered the issues raised by the plaintiffs in the NEPA process and were not arbitrary and capricious in rendering its decision. Therefore, this supplemental EIS will be of limited scope with the purpose of determining whether the FHWA decision for the selected alternative represented by the revised ROD dated March 13, 2001, remains reasonable once the impacts of the bypass on the South Fork Rivanna River Reservoir and archeological resources not currently accounted for are thoroughly examined and considered.

In accordance with 40 CFR 1502.9(c)(4), scoping will not be reinitiated for the project. To support the development of the supplemental EIS, local officials and State and Federal agencies will be coordinated with as necessary, given the limited scope of the supplemental EIS. Letters describing the proposed study and soliciting input will be sent to the appropriate agencies which are known to have an interest or legal role in the project. Once completed, copies of the supplemental EIS will be sent to all recipients of the final EIS for the Route 29 Corridor Study. A public hearing is planned where the draft supplemental EIS will be made available to the public for review and comment prior to and after the hearing. Notices of the public hearing will be given through various forums, including the newspaper, providing the time and place of the meeting along with other relevant information. Any comments that are received during the public comment period that address the issues for which the supplemental EIS is being prepared will be considered before FHWA renders its decision regarding the existing selected alternative. Any comments that are received which address issues which the Court has already determined have been adequately addressed will be reviewed but not considered unless they raise significant new information.

Comments and questions concerning the development of the supplemental EIS and its scope should be directed to FHWA at the address provided above. Preparation of this supplemental EIS does not require the withdrawal of any previous approvals or documents.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: September 14, 2001.

Edward S. Sundra,

Senior Environmental Specialist.

[FR Doc. 01–24287 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Assessment or Environmental Impact Statement: Summit County, OH

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental assessment or environmental impact statement will be prepared for a proposed project in Summit County, Ohio.

FOR FURTHER INFORMATION CONTACT: Michael B. Armstrong, Urban Programs Engineer, Federal Highway Administration, 200 N. High Street, Room 328, Columbus, Ohio 43215, Telephone: (614) 280–6855.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Ohio Department of Transportation (ODOT), will prepare an environmental assessment (EA) or environmental impact statement (EIS) on a proposal to upgrade 5.2 miles of SR 8 between SR 303 and I–271 in Summit County, Ohio.

Upgrading SR 8 is considered necessary to improve the traffic flow and to meet current design standards. The proposal will reduce the existing vehicular traffic congestion along SR8.

Alternatives under consideration include: (1) Taking no action; (2) upgrading the existing 4-lane controlled access facility to a 4-lane limited access facility; (3) constructing a highway on new alignment; and (4) upgrading the existing 4-lane controlled access facility to a 6-lane controlled access facility.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and, local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public hearing was previously held for the project on May 24, 2000. In Spring of 2002, an additional public hearing will be held in the project area. Public notice will be

given of the time and place of the public hearing. The draft EA or draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EA or EIS should be directed to the FHWA at the address provided above.

(Catalog of the Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 20, 2001.

Michael B. Armstrong,

Urban Programs Engineer, Federal Highway Administration, Columbus, Ohio.

[FR Doc. 01–24284 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on Wednesday, October 24, 2001. The meeting begins at 8:30 a.m. with a Breakfast Business Meeting (#41).

Note: There is a Coordinating Council Workshop on Tuesday, October 23, 2001 from 12:30 p.m.–6:30 p.m. The Council mission and objectives will be discussed. The recommended actions will be reported out on Wednesday, October 24, 2001, from 10:15 a.m.–12 p.m.

The letter designations that follow each item mean the following: (I) is an information item; (A) is an action item; (D) is a discussion item. The General Session includes the following items: (1) Housekeeping Items: Welcome, Introductions, Antitrust statement, previous minutes, etc. (I); (2) US DOT Federal Report (I/D); (3) President's Report (I/D); (4) Advanced Construction Management Systems Task Force (D/A); (5) Committee Reports/Updates/Issues (TBD); (6) Closing Housekeeping (Next meeting dates/locations; (7) Adjournment.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Coordinating Council of ITS AMERICA will meet on Wednesday, October 24, 2001 from 8:30 a.m.–10 a.m. Room TBA. Note: There is a Coordinating Council Workshop on Tuesday, October 23, 2001 from 12:30 p.m.—6:30 p.m. The Council mission and objectives will be discussed. The recommended actions will be reported out on Wednesday, October 24, 2001, from 10:15 a.m.–12 p.m.

ADDRESSES: Bourbon Orleans—A Wyndham Historic Hotel, 717 Orleans Street, New Orleans, Louisiana, 70116 Phone: (504) 523–2222.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW., Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS AMERICA by telephone at (202) 484–2904 or by FAX at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, DC 20590, (202) 366–9536. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: September 24, 2001.

Jeffrey Paniati,

Program Manager, ITS Joint Program Office, U.S. Department of Transportation.

[FR Doc. 01–24422 Filed 9–27–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34091]

Delaware-Lackawanna Railroad Co., Inc.—Operation Exemption—Monroe County Railroad Authority

Delaware-Lackawanna Railroad Co., Inc. (D–L), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate over approximately 10 miles of rail line to be acquired by Monroe County Railroad Authority (MCRA) pursuant to a sublease. The line, which has been operated by Norfolk Southern Railway Company (NSR), consists of that portion of the Stroudsburg Secondary Track extending between milepost 2.0, approximately old milepost 74.4 (Slate), and milepost 12.2, approximately old milepost 84.6 (Gravel), in Monroe and Northampton Counties, PA.[1]

This transaction is related to STB Finance Docket No. 34092, *Monroe County Railroad Authority—Lease Exemption—Norfolk Southern Railway Company and Pennsylvania Lines LLC,* wherein MCRA seeks to sublease the line involved here.

The transaction was scheduled to be consummated on or about September 14, 2001. The earliest the transaction could have been consummated was on September 14, 2001, the effective date of the exemption (7 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34091, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Keith G. O'Brien, Esq., REA, CROSS & AUCHINCLOSS, 1707 L Street, NW., Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: September 24, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–24396 Filed 9–27–01; 8:45 am]

BILLING CODE 4915–01–P

[1] D–L's operation of the line is subject to the NSR's retention of overhead trackage rights.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34092]

Monroe County Railroad Authority—Lease Exemption—Norfolk Southern Railway Company and Pennsylvania Lines LLC

Monroe County Railroad Authority (MCRA), a political subdivision and nonoperating Class III rail common carrier, has filed a notice of exemption under 49 CFR 1150.41 to sublease approximately 10 miles of rail line currently owned by Pennsylvania Lines LLC (PRR) and currently operated by Norfolk Southern Railway Company (NSR).[1] The line consists of that portion of the Stroudsburg Secondary Track extending between milepost 2.0, approximately old milepost 74.4 (Slate), and milepost 12.2, approximately old milepost 84.6 (Gravel), in Monroe and Northampton Counties, PA.[2]

This transaction is related to STB Finance Docket No. 34091, *Delaware-Lackawanna Railroad Co., Inc.—Operation Exemption—Monroe County Railroad Authority,* wherein Delaware-Lackawanna Railroad Co., Inc. has concurrently filed a notice of exemption under 49 CFR 1150.41 to operate over the rail line involved here.

The transaction was scheduled to be consummated on or about September 14, 2001. The earliest the transaction could have been consummated was on September 14, 2001, the effective date of the exemption (7 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34092, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Keith G. O'Brien, Esq., REA, CROSS & AUCHINCLOSS, 1707 L Street, NW., Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: September 24, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–24397 Filed 9–27–01; 8:45 am]

BILLING CODE 4915–00–P

[1] MCRA states that NSR will retain overhead trackage rights over the line.

[2] MCRA anticipates that it will have a contingent option to purchase the line.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–565 (Sub–No. 4X), STB Docket No. AB–55 (Sub–No. 597X)]

New York Central Lines, LLC—Abandonment Exemption—in Vermillion and Warren Counties, IN, CSX Transportation, Inc.—Discontinuance of Service Exemption—in Vermillion and Warren Counties, IN

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for NYC to abandon and CSXT to discontinue service over approximately 6.12 miles of railroad between milepost QSO–15.18 near the Illinois/Indiana State line and milepost QSO–11.30 near Olin, in Vermillion and Warren Counties, IN. The line traverses United States Postal Service Zip Code 47932.

NYC and CSXT have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (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 these exemptions, any employee adversely affected by the abandonment or 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, these exemptions will be effective on October 30, 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 9, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 18, 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 applicants' representative: Paul R. Hitchcock, Assistant General Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NYC and CSXT have 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 October 5, 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), NYC 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 NYC's filing of a notice of consummation by September 28, 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 website at *www.stb.dot.gov.*

[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).

Decided: September 19, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23963 Filed 9–27–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Bahrain

Iraq

Kuwait

Lebanon

Libya

Oman

Qatar

Saudi Arabia

Syria

United Arab Emirates

Yemen, Republic of

Dated: September 21, 2001.

Barbara Angus,

International Tax Counsel (Tax Policy).

[FR Doc. 01–24283 Filed 9–27–01; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

NATIONAL CREDIT UNION ADMINISTRATION

FEDERAL TRADE COMMISSION

COMMODITY FUTURES TRADING COMMISSION

SECURITIES AND EXCHANGE COMMISSION

Public Workshop on Financial Privacy Notices

AGENCIES: Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision (OTS); National Credit Union Administration (NCUA); Federal Trade Commission (FTC); Commodity Futures Trading Commission (CFTC); and Securities and Exchange Commission (SEC).

ACTION: Joint Notice Announcing Public Workshop and Requesting Public Comment.

SUMMARY: The OCC, Board, FDIC, OTS, NCUA, FTC, CFTC, and SEC (''the Agencies'') are planning to host a joint public workshop to educate the Agencies and the public about how financial institutions can provide consumers with effective notice of their privacy policies and practices as required by Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. 6801 *et seq.* (the ''GLB Act'' or ''Act'').

DATES: The workshop will be held on Tuesday, December 4, 2001, from 9:00 a.m. to 5:00 p.m. at the Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

Pre-registration: The event is open to the public and there is no fee for attendance. However, attendees are strongly encouraged to pre-register, as seating will be limited. To pre-register, please email your name and affiliation by November 16, 2001, to *glbworkshop@ftc.gov.*

Requests to participate as a panelist: As discussed below, written requests to participate as a panelist in the workshop must be filed on or before October 15, 2001. Persons filing requests to participate as a panelist will be notified on or before November 16, 2001, if they have been selected to participate.

Written comments: Whether or not selected to participate, persons may submit written comments on the Questions to be Addressed at the workshop. Such comments must be filed on or before January 4, 2002.

ADDRESSES: Written comments and requests to participate as a panelist in the workshop should be submitted to: Secretary, Federal Trade Commission, Room 159, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. Alternatively, they may be emailed to *glbworkshop@ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Toby Milgrom Levin, Division of Advertising Practices, 202–326–3224, or Julie Brof, Division of Financial Practices, 202–326–3224. Both of the above staff can be reached by mail at: Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

Interested parties may also contact the following staff at the Agencies:

OCC: Amy Friend, Assistant Chief Counsel, 202–874–5200

Board: Ky Tran-Trong, Attorney, Division of Consumer and Community Affairs, 202–452–3667

FDIC: Stacy Messett, Review Examiner, Division of Compliance and Consumer Affairs, 202–942–3406

OTS: Cindy Baltierra, Program Analyst, 202–906–6540

NCUA: Mary Rupp, Staff Attorney, Office of General Counsel, 703–518–6553

CFTC: Nancy Yanofsky, Assistant Chief Counsel, Division of Economic Analysis, 202–418–5260

SEC: Penelope Saltzman, Senior Counsel, Office of Regulatory Policy, Division of Investment Management, 202–942–0690

SUPPLEMENTARY INFORMATION:

Background and Workshop Goals

The GLB Act (Pub. L. No. 106–102) was signed into law on November 12, 1999. Subtitle A of Title V of the Act, captioned ''Disclosure of Nonpublic Personal Information,'' limits the instances in which a financial institution may disclose nonpublic personal information about a consumer to nonaffiliated third parties, and requires a financial institution to disclose to all of its customers the institution's privacy policies and

practices with respect to information sharing with both affiliates and nonaffiliated third parties.[1] With certain exceptions, the Act also prohibits a financial institution from disclosing nonpublic personal information about a consumer to nonaffiliated third parties if the consumer opts out of the disclosure.

The Act directed each of the Agencies to adopt regulations implementing these provisions.[2] Compliance with those regulations was required not later than July 1, 2001.[3] Each Agency's final rule requires that financial institutions provide clear, conspicuous, and accurate notice of their privacy policies and practices to their customers. Each rule also specifies the general content (but not the particular language) to be included in the notices and provides sample clauses designed to illustrate the appropriate level of detail.

Some consumer and privacy advocates and others have expressed concerns about the adequacy of a number of privacy notices provided thus far, stating, for example, that the notices are confusing and/or misleading and that the opt-out disclosures are hard to find. At the same time, some financial institutions, which are implementing these rules for the first time, have sought additional guidance from the Agencies about the form and content of their notices. The Agencies therefore believe that it would be useful to provide a public forum to discuss strategies for providing effective notices. The workshop will bring together financial institutions, consumer and privacy groups, experts on readability and consumer communication, and others to discuss the issues through moderated panel discussions. The Agencies anticipate that the workshop will provide a greater understanding of the challenges financial institutions face in developing effective notices under the Act and may also be a vehicle for developing consumer and business education materials about GLB notice issues.

[1] 15 U.S.C. 6801 *et seq.* The implementing regulations are set forth at 12 CFR part 40 (OCC); 12 CFR part 216 (Board); 12 CFR part 332 (FDIC); 12 CFR part 573 (OTS); 12 CFR part 716 (NCUA); 16 CFR part 313 (FTC); and 17 CFR part 248 (SEC).

[2] Persons or entities subject to the jurisdiction of the CFTC were initially excluded from the coverage of the GLB Act. 15 U.S.C. 6809(3)(B). That was changed by the Commodity Futures Modernization Act of 2000, which made the CFTC a federal functional regulator under the GLB Act, and required it to promulgate privacy regulations for certain persons or entities subject to its jurisdiction. 7 U.S.C. 7b–2. The CFTC's implementing regulations are set forth at 17 CFR part 160.

[3] The compliance date for the CFTC's final privacy rule is March 31, 2002. 17 CFR 160.18.

Registration Information

The workshop will be open to the public and there is no fee for attendance. As discussed above, pre-registration is strongly encouraged, as seating will be limited. To pre-register, please email your name and affiliation to *glbworkshop@ftc.gov* by November 16, 2001. A detailed agenda and additional information on the workshop will be posted on the FTC's website at *www.ftc.gov/glbworkshop* before December 4th. After the workshop, a transcript will be posted on the website.

Questions To Be Addressed

The questions to be addressed at the workshop include:

1. What challenges are associated with providing effective privacy notices?

2. What are some examples of privacy notices that are easy to read and understand and that can serve as models for effective communication to consumers? What formats are particularly effective?

3. What can we learn from readability and communications experts that will help financial institutions draft notices that are easy to read and easy to find?

4. Are any industry groups developing self-regulatory guidelines or ''best practices'' regarding GLB privacy notices and reasonable opt-out methods? Are there useful models or guidelines from other contexts, such as online privacy, that could provide guidance here?

5. Have individual financial institutions or industry, consumer, or privacy groups developed effective business and consumer education materials regarding GLB privacy policies? Would it be useful for the Agencies or others to develop additional consumer and business education materials regarding GLB privacy policies?[4]

Form and Availability of Comments

The Agencies request that interested parties submit written comments on the above questions to facilitate greater understanding of the issues. Of particular interest are any studies, surveys, research, or other empirical data related to these questions. Comments should indicate the number(s) of the specific question(s) being answered, provide responses to questions in numerical order, and use a new page for each question answered.

[4] The FDIC has published guidance for consumers about the GLB Act, available at *www.fdic.gov/consumers/consumer/news/index.html.* Later this year, the Agencies expect to issue additional consumer education materials on the GLB Act, which will be available online as well.

Comments should be captioned ''GLB Act Notice Workshop—Comment, P014814,'' and must be filed on or before January 4, 2002.

Parties sending written comments should submit an original and two copies of each document. To enable prompt review and public access, paper submissions should include a version on diskette in PDF, ASCII, WordPerfect, or Microsoft Word format. Diskettes should be labeled with the name of the party, and the name and version of the word processing program used to create the document. Alternatively, comments may be emailed to *glbworkshop@ftc.gov,* and should include the same information requested above.

Written comments will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and FTC regulations, 16 CFR part 4.9, Monday through Friday between the hours of 8:30 a.m. and 5 p.m. at the Public Reference Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. This notice and, to the extent technologically possible, all comments will also be posted on the FTC website at *www.ftc.gov/glbworkshop,* and a link to this site will appear on the website of each of the participating Agencies.

Requests To Participate as a Panelist in the Workshop

Those parties who wish to participate as panelists in the workshop must notify the FTC in writing of their interest in participating on or before October 15, 2001, either by mail to the Secretary of the FTC or by email to *glbworkshop@ftc.gov.* Requests to participate as a panelist should be captioned ''GLB Act Notice Workshop—Request to Participate, P014814.'' Parties are asked to include in their requests a statement setting forth their expertise in or knowledge of the issues on which the workshop will focus and their contact information, including a telephone number, facsimile number, and email address (if available), to enable the Agencies to notify them if they are selected. An original and two copies of each document should be submitted. Panelists will be notified on or before November 16, 2001 whether they have been selected.

Using the following criteria, Agency staff will select a limited number of panelists to participate in the workshop. The number of parties selected will not be so large as to inhibit effective discussion among them.

1. The party has expertise in or knowledge of the issues that are the focus of the workshop.

2. The party's participation would promote a balance of interests being represented at the workshop.

3. The party has been designated by one or more interested parties (who timely file requests to participate) as a party who shares group interests with the designator(s).

In addition, there will be time during the workshop for those not serving as panelists to ask questions.

Dated: September 14, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, September 21, 2001.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC this 18th day of September 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: September 13, 2001.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

By the National Credit Union Administration Board on September 5th, 2001.

Becky Baker,

Secretary of the Board.

By direction of the Commission.

Donald S. Clark,

Secretary of the Commission.

Issued in Washington, DC, on this 5th day of September 2001 by the Commission.

Catherine D. Dixon,

Assistant Secretary, Commodity Futures Trading Commission.

By the Commission.

Dated: September 21, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24260 Filed 9–27–01; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service; Financial Management Service

Proposed Collection of Information: Financial Institution Agreement and Application Forms for Designation as a Treasury Tax and Loan Depositary and Resolution

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, 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 a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the forms ''Financial Institution Agreement and Application Forms for Designation as a Treasury Tax and Loan Dispositary and Resolution.''

DATES: Written comments should be received on or before November 27, 2001.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Karol Forsberg, Electronic Banking Services Division, 401–14th Street, SW, Room 313, Washington, DC 20227, (202) 874–6580.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Financial Institution Agreement and Application Forms for Designation as a Treasury Tax and Loan Depositary and Resolution.

OMB Number: 1510–0052.

Form Number: FMS 458 and FMS 459.

Abstract: Financial Institutions are required to complete and submit the information on the Agreement Application and Resolution forms to participate in the Treasury Tax and Loan program.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 450.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 255.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information .

Dated: September 20, 2001.

Bettsy H. Lane,

Assistant Commissioner, Federal Finance.

[FR Doc. 01–24266 Filed 9–27–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0590]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Acquisition and Materiel Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Acquisition and Materiel Management (OA&MM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to ensure that VA will not be held liable for any negligent acts of the contractor or its employees and ensures that VA and VA beneficiaries are protected by adequate insurance coverage.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 27, 2001. 1

ADDRESSES: Submit written comments on the collection of information to Donald E. Kaliher, Office of Acquisition and Materiel Management (95A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail *donald.kaliher@mail.va.gov.* Please refer to ''OMB Control No. 2900–0590'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Donald E. Kaliher at (202) 273–8819.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501—3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OA&MM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OA&MM's functions, including whether the information will have practical utility; (2) the accuracy of OA&MM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles

a. Veterans Affairs Acquisition Regulation Clauses 852.237–73, Indemnification and Medical Liability Insurance.

b. Veterans Affairs Acquisition Regulation Clauses 852.237–71, Indemnification and Insurance.

c. Veterans Affairs Acquisition Regulation Clauses 852.207–70, Report of Employment Under Commercial Activities.

OMB Control Number: 2900–0590.

Type of Review: Revision of a currently approved collection.

Abstract: For VA Acquisition Regulation Clauses 852.237–7 and 852.237–71, failure to collect the information would have a negative impact on VA's ability to ensure that VA will not be held liable for any negligent acts of the contractor and that VA beneficiaries and the public are protected by adequate insurance coverage. For clause 852.207–70, failure to collect the data could have a negative impact on VA employees who are displaced as the result of award of a contract to a commercial firm and would make it difficult for VA to enforce the requirements of Federal Acquisition Regulation clause 52.207–3, Right of First Refusal of Employment.

Affected Public: Business or other for-profit; Individuals and households; Not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden: 1,300 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,200.

Number of Responses Annually: 2,600.

Dated: September 10, 2001.

By direction of the Secretary:

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–23891 Filed 9–27–01; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
September 28, 2001

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AH79

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits for general waterfowl seasons and those early seasons for which States previously deferred selection. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits the taking of designated species during the 2001–02 season.

DATES: This rule is effective on September 29, 2001.

FOR FURTHER INFORMATION CONTACT: Jonathan Andrew, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2001

On April 30, 2001, we published in the **Federal Register** (66 FR 21298) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 14, 2001, we published in the **Federal Register** (66 FR 32297) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 2001–02 duck hunting season. The June 14 supplement also provided detailed information on the 2001–02 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

On June 20–21, we held meetings that reviewed information on the current status of migratory shore and upland game birds and developed 2001–02 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands, special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2001–02 regular waterfowl seasons. On July 24, we published in the **Federal Register** (66 FR 38494) a third document specifically dealing with the proposed frameworks for early-season regulations and final regulatory alternatives for the 2001–02 duck hunting season. On August 21, 2001, we published in the **Federal Register** (66 FR 44010) a final rule that contained final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits. On August 29, 2001, we published in the **Federal Register** (66 FR 45730) a final rule amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons.

On August 1–2, 2001, we held a public meeting in Washington, DC, as announced in the April 30, and June 14 **Federal Register**s, to review the status of waterfowl. Proposed hunting regulations were discussed for late seasons. We published proposed frameworks for the 2001–02 late-season migratory bird hunting regulations on August 28, 2001, in the **Federal Register** (66 FR 45516). We published final late-season frameworks for migratory game bird hunting regulations, from which State wildlife conservation agency officials selected late-season hunting dates, hours, areas, and limits for 2001–02 in the September 27, 2001, **Federal Register**.

The final rule described here is the eighth and final in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations for 2001–02 and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for species subject to late-season regulations and those for early seasons that States previously deferred.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

We have considered provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and that the action is consistent with conservation programs for those species.

Executive Order (E.O.) 12866

This rule was reviewed by the Office of Management and Budget (OMB). The migratory bird hunting regulations are economically significant and are annually reviewed by OMB under E.O. 12866.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $429 million and $1.084 billion at small businesses in 1998. Copies of the Analysis are available upon request from the address indicated under the caption **ADDRESSES.**

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808 (1) .

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995.

We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned control number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned control number 1018–0023 (expires 7/31/2003). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges, and, therefore, reduces restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

Energy Effects—E.O. 13211

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that, when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to implement their selected season dates and limits and start their seasons in a timely manner.

We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: September 19, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

For the reasons set out in the preamble, title 50, chapter I, subchapter B, Part 20, subpart K of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

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

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a–-j, Pub. L. 106–108.

BILLING CODE 4310–55–P

Note - The following annual regulations provided for by §§20.104, 20.105, 20.106, 20.107, and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

2. Section 20.104 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 21 and September 27 Federal Registers.

NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2001, Federal Register (66 FR 45730).

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Daily bag limit	25 (1)	15 (2)	3	8
Possession limit	25 (1)	30 (2)	6	16
ATLANTIC FLYWAY				
		* * * * *		
Massachusetts (4)	Sept. 1-Nov. 9	Closed	Oct. 18-Oct. 27 & Oct. 29-Nov. 17	Sept. 1-Dec. 15
		* * * * *		
Vermont	Closed	Closed	Oct. 6-Nov. 4	Oct. 10-Dec. 13
		* * * * *		
MISSISSIPPI FLYWAY				
		* * * * *		
Louisiana	Sept. 15-Sept. 30 & Nov. 10-Jan. 2	Sept. 15-Sept. 30 & Nov. 10-Jan. 2	Dec. 15-Jan. 28	Nov. 3-Dec.3 & Dec. 15-Feb. 28
		* * * * *		
Tennessee				
Reelfoot Zone	Nov. 17-Nov. 18 & Dec. 1-Jan. 18	Closed	Oct. 27-Dec. 10	Nov. 14-Feb. 28
State Zone	Dec. 1-Dec. 3 & Dec. 15-Jan. 20	Closed	Oct. 27-Dec. 10	Nov. 14-Feb. 28
Wisconsin				
North Zone	Sept. 29-Nov. 27	Closed	Sept. 22-Nov. 5	Sept. 29-Nov. 27
South Zone	Sept. 29-Nov. 27	Closed	Sept. 22-Nov. 5	Sept. 29-Nov. 27
		* * * * *		
CENTRAL FLYWAY				
		* * * * *		
New Mexico (16)	Oct. 6-Dec. 14	Closed	Closed	Oct. 6-Jan. 20
		* * * * *		
PACIFIC FLYWAY				
Arizona (17)				
North Zone	Closed	Closed	Closed	Oct. 12-Jan. 20
South Zone	Closed	Closed	Closed	Oct. 12-Jan. 20
California	Closed	Closed	Closed	Oct. 20-Feb. 3
		* * * * *		
Idaho				
Zone 1	Closed	Closed	Closed	Oct. 6-Jan. 18
Zones 2 & 3	Closed	Closed	Closed	Oct. 6-Oct. 17 & Oct. 20-Jan. 20
		* * * * *		
Nevada				
Clark County	Closed	Closed	Closed	Oct. 13-Jan. 20
Rest of State	Closed	Closed	Closed	Oct. 13-Jan. 20
New Mexico(16)	Oct. 6-Dec. 14	Closed	Closed	Oct. 6-Jan. 20
		* * * * *		
Oregon				
Zone 1	Closed	Closed	Closed	Oct. 6-Nov. 23 & Dec. 29-Feb. 24
Zone 2	Closed	Closed	Closed	Oct. 6-Nov. 23 & Dec. 29-Feb. 24
Utah	Closed	Closed	Closed	Oct. 6-Jan. 19

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Washington				
East Zone	Closed	Closed	Closed	Oct. 6-Oct. 17 & Oct. 20-Jan. 20
West Zone	Closed	Closed	Closed	Oct. 6-Oct. 17 & Oct. 20-Jan. 20

* * * * *

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these species.

(2) All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States. In Connecticut, Delaware, Maryland, and New Jersey, the limits for clapper and king rails are 10 daily and 20 in possession.

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(4) In Massachusetts, the sora daily limits are 5 daily and 5 in possession; the Virginia rail limits are 10 daily and 10 in possession.

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(16) In New Mexico, the rail daily bag and possession limits are 10 and 20, respectively.
(17) In Arizona, Ashurst Lake in Unit 5B is closed to common snipe hunting.

3. In Section 20.105, paragraphs (a), (b), and (f) are amended by adding the entries for the following States in alphabetical order and paragraph (e) is revised to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 21 and September 27 Federal Registers.

(a) Common Moorhens and Purple Gallinules
(Atlantic, Mississippi, and Central Flyways)

NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2001, Federal Register (66 FR 45730). The zones named in this paragraph are the same as those used for setting duck seasons.

	Season Dates	Limits Bag	Limits Possession
ATLANTIC FLYWAY			
* * * * *			
Virginia	Oct. 10-Oct. 13 &	15	30
	Nov. 16-Jan. 19	15	30
West Virginia			
Zone 1	Oct. 1-Oct. 14 &	15	30
	Dec. 6-Jan. 20	15	30
Zone 2	Oct. 1-Oct. 14 &	15	30
	Nov. 22-Jan. 6	15	30
* * * * *			
MISSISSIPPI FLYWAY			
* * * * *			
Louisiana	Sept. 15-Sept. 30 &	15	30
	Nov. 10-Jan. 2	15	30
Michigan			
North Zone	Sept. 29-Nov. 27	15	30
Middle Zone	Sept. 29-Nov. 27	15	30
South Zone	Oct. 6-Dec. 2 &	15	30
	Jan. 5-Jan. 6	15	30
Minnesota (2)	Sept. 29-Nov. 27	15	30
* * * * *			
Tennessee			
Reelfoot Zone	Nov. 17-Nov. 18 &	15	30
	Dec. 1-Jan. 18	15	30
State Zone	Dec. 1-Dec. 3 &	15	30
	Dec. 15-Jan. 20	15	30
Wisconsin			
North Zone	Sept. 29-Nov. 27	10	20
South Zone	Sept. 29-Nov. 27	10	20
* * * * *			

	Season Dates	Limits Bag	Limits Possession
PACIFIC FLYWAY			
All States	Seasons are in aggregate with coots and listed in paragraph (e).		

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(2) In Minnesota, the daily bag limit is 15 and the possession limit is 30 coots and moorhens in the aggregate.

(b) Sea Ducks (scoter, eider, and oldsquaw ducks in Atlantic Flyway)

NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2001, Federal Register (66 FR 45730).

Within the special sea duck areas, the daily bag limit is 7 sea ducks of which no more than 4 may be scoters. Possession limits are twice the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season Dates	Limits Bag	Limits Possession
	* * * * *		
Maine (1)	Oct. 1-Jan. 19	7	14
Maryland	Oct. 6-Jan. 19	5	10
Massachusetts (2)	Oct. 5-Jan. 20	7	14
	* * * * *		
North Carolina	Oct. 1-Jan. 19	7	14
	* * * * *		
South Carolina	Oct. 6-Jan. 20	7	14
Virginia	Oct. 10-Jan. 19	7	14

Note: Notwithstanding the provisions of this part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

(1) In Maine, the daily bag limit for eiders is 5, possession 10.
(2) In Massachusetts, the daily bag limit may include no more than 4 eiders (only 1 of which may be a hen) and 4 oldsquaws.

(e) Waterfowl, Coots, and Pacific-Flyway Seasons for Common Moorhens and Purple Gallinules

Definitions

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Light Geese: Includes lesser snow (including blue) geese, greater snow geese, and Ross' geese.

Dark Geese: Includes Canada geese, white-fronted geese, emperor geese, brant (except in California, Oregon, Washington, and the entire Atlantic Flyway) and all other geese except light geese.

ATLANTIC FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (2 hen mallards), 3 scaup, 1 black duck, 1 pintail, 1 canvasback, 1 mottled duck, 2 wood ducks, 2 redheads, and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

Harlequin Ducks: All areas of the Flyway are closed to harlequin duck hunting.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession.

	Season Dates	Limits Bag	Limits Possession
Connecticut			
Ducks (1):		6	12
North Zone:			
Canvasbacks	Dec. 21-Jan. 12		
Other ducks	Oct. 10-Oct. 20 & Nov. 16-Jan. 12		
South Zone:			
Canvasbacks	Dec. 28-Jan. 19		
Other ducks	Oct. 10-Oct. 17 & Nov. 20-Jan. 19		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30

	Season Dates	Limits Bag	Limits Possession
Connecticut (cont.)			
Canada Geese:			
NAP Zone:			
North Zone	Oct. 10-Oct. 27 &	2	4
	Nov. 29-Jan. 1	2	4
South Zone	Oct. 10-Oct. 17 &	2	4
	Dec. 1-Jan. 14	2	4
(special season)	Jan. 15-Feb. 15	5	10
AP Zone	Nov. 3-Nov. 10 &	1	2
	Nov. 21-Dec. 17	1	2
Light Geese:			
North Zone	Oct. 10-Feb. 8	15	--
South Zone	Oct. 10-Feb. 8	15	--
Brant:			
North Zone	Nov. 16-Jan. 12	2	4
South Zone	Nov. 23-Jan. 19	2	4
Delaware			
Ducks :		6	12
Canvasbacks	Dec. 24-Jan. 15		
Other ducks (2)	Oct. 4-Oct. 6 &		
	Oct. 27-Nov. 3 &		
	Nov. 19-Jan. 15		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese	Nov. 15-Nov. 24 &	1	2
	Dec. 22-Jan. 15	1	2
Light Geese (3):			
Bombay Hook NWR Zone	Oct. 5-Jan. 14 &	15	--
	Feb. 4-Mar. 9	15	--
Rest of State	Oct. 4-Nov. 5 &	15	--
	Nov. 19-Jan. 15 &	15	--
	Jan. 21-Mar. 9	15	--
Brant	Nov. 23-Jan. 19	2	4
Florida			
Ducks:		6	12
Canvasbacks	Dec. 27-Jan. 15		
Other ducks	Nov. 17-Jan. 15		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese (4)	Nov. 17-Jan. 25	3	6
Light Geese (5)	Nov. 17-Jan. 15	15	--
Georgia			
Ducks:		6	12
Canvasbacks	Jan. 1-Jan. 20		
Other ducks	Nov. 17-Nov. 25 &		
	Dec. 1-Jan. 20		

	Season Dates	Limits Bag	Limits Possession
Georgia (cont.)			
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese (special season)	Nov. 17-Nov. 25 &	3	6
	Dec. 1-Jan. 30	3	6
Light Geese	Same as for Canada geese	3	6
Brant	Closed	--	--
Maine			
Ducks (6):		6	12
North Zone:			
Canvasbacks	Oct. 1-Oct. 20		
Other ducks	Oct. 1-Dec. 8		
South Zone:			
Canvasbacks	Oct. 1-Oct. 20		
Other ducks	Oct. 1-Oct. 20 &		
	Nov. 5-Dec. 22		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
North Zone	Oct. 1-Nov. 21	2	4
South Zone	Oct. 1-Oct. 20 &	2	4
	Nov. 15-Dec. 15	2	4
Light Geese	Oct. 1-Jan. 31	15	--
Brant	Oct. 1-Nov. 27	2	4
Maryland			
Ducks (7):		5	10
Canvasbacks	Dec. 28-Jan. 19		
Other ducks	Oct. 6-Oct. 13 &		
	Nov. 2-Nov. 23 &		
	Dec. 12-Jan. 19		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:	Closed	--	--
SJBP Zone	Nov. 15-Nov. 23 &	2	4
	Dec. 8-Jan. 14	2	4
(special season)	Jan. 15-Feb. 15	3	6
AP Zone	Nov. 19-Nov. 23 &	1	2
	Dec. 22-Jan. 19	1	2
Light Geese (8)	Oct. 13-Nov. 23 &	15	--
	Dec. 6-Jan. 31 &	15	--
	Feb. 1-Mar. 9	15	--
Brant	Nov. 6-Nov. 23 &	2	4
	Dec. 12-Jan. 19	2	4
Massachusetts			
Ducks (9):		6	12
Western Zone:			
Canvasbacks	Closed		
Other ducks	Oct. 9-Nov. 24 &		
	Dec. 11-Jan. 1		

	Season Dates	Limits Bag	Limits Possession
Massachusetts (cont.)			
Central Zone:			
Canvasbacks	Closed		
Other ducks	Oct. 10-Nov. 24 & Dec. 14-Jan. 5		
Coastal Zone:			
Canvasbacks	Dec. 21-Jan. 12		
Other ducks	Oct. 11-Oct. 27 & Nov. 22-Jan. 12		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
NAP Zone			
Central Zone:	Oct. 10-Nov. 24 &	2	4
	Dec. 14-Dec. 19	2	4
Coastal Zone:	Oct. 11-Oct. 27 &	2	4
	Dec. 10-Jan. 12	2	4
(special season)	Jan. 15-Feb. 9	5	10
AP Zone	Oct. 27-Nov. 24 &	1	2
	Dec. 11-Dec. 15	1	2
Light Geese:			
Western Zone	Same as for ducks	15	30
Central Zone	Same as for ducks &	15	30
	Jan. 15-Feb. 9	15	30
Coastal Zone	Same as for ducks &	15	30
	Jan. 15-Feb. 9	15	30
Brant:			
Western & Central Zone	Closed	--	--
Coastal Zone	Nov. 22-Jan. 18	2	4
New Hampshire			
Ducks :		6	12
Inland Zone:			
Canvasbacks	Closed		
Other ducks	Oct. 2-Nov. 4 & Nov. 21-Dec. 18		
Coastal Zone:			
Canvasbacks	Closed		
Other ducks	Oct. 3-Oct. 21 & Nov. 21-Dec. 31		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Inland Zone	Oct. 2-Nov. 4 &	2	4
	Nov. 21-Dec. 1	2	4
Coastal Zone	Oct. 3-Oct. 14 &	2	4
	Nov. 21-Dec. 23	2	4
Light Geese:			
Inland Zone	Oct. 2-Dec. 16	15	--
Coastal Zone	Oct. 3-Dec. 31	15	--
Brant:			
Inland Zone	Oct. 2-Nov. 4 &	2	4
	Nov. 21-Dec. 6	2	4
Coastal Zone	Oct. 3-Oct. 21 &	2	4
	Nov. 21-Dec. 21	2	4

	Season Dates	Limits Bag	Limits Possession
New Jersey			
Ducks (10):		6	12
North Zone:			
Canvasbacks	Dec. 12-Jan. 3		
Other ducks	Oct. 13-Nov. 3 & Nov. 17-Jan. 3		
South Zone:			
Canvasbacks	Dec. 18-Jan. 9		
Other ducks	Oct. 20-Dec. 1 & Dec. 14-Jan. 9		
Coastal Zone:			
Canvasbacks	Dec. 28-Jan. 19		
Other ducks	Nov. 3-Nov. 13 & Nov. 22-Jan. 19		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
North Zone	Nov. 17-Nov. 24 &	2	4
	Dec. 25-Jan. 19	2	4
South Zone	Nov. 22-Dec. 1 &	2	4
	Dec. 27-Jan. 19	2	4
Coastal Zone	Nov. 22-Nov. 24 &	2	4
	Dec. 20-Jan. 19	2	4
(special season)	Jan. 21-Feb. 15	5	10
Light Geese:			
North Zone	Oct. 13-Feb. 14	15	--
South Zone	Oct. 20-Oct. 27 &	15	--
	Nov. 13-Jan. 21 &	15	--
	Jan. 23-Mar. 9	15	--
Coastal Zone	Oct. 3-Feb. 4	15	--
Brant:			
North Zone	Oct. 13-Nov. 3 &	2	4
	Nov. 22-Dec. 27	2	4
South Zone	Oct. 20-Nov. 3 &	2	4
	Nov. 17-Dec. 29	2	4
Coastal Zone	Nov. 3-Nov. 13 &	2	4
	Nov. 22-Jan. 8	2	4
New York			
Ducks (11):		6	12
Long Island Zone:			
Canvasbacks	Jan. 1-Jan.20		
Other ducks	Nov. 16-Nov. 25 & Dec. 2-Jan. 20		
Lake Champlain Zone:			
Canvasbacks	Nov. 6-Nov. 25		
Other ducks	Oct. 10-Oct. 14 & Oct. 20-Dec. 13		
Northeastern Zone:			
Canvasbacks	Nov. 17-Dec. 6		
Other ducks	Oct. 6-Nov. 12 & Nov. 17-Dec. 8		

	Season Dates	Limits Bag	Limits Possession
New York (cont.)			
Southeastern Zone:			
Canvasbacks	Dec. 4-Dec. 23		
Other ducks	Oct. 13-Oct. 21 & Nov. 3-Dec. 23		
Western Zone:			
Canvasbacks	Dec. 27-Jan. 6		
Other ducks	Oct. 20-Dec. 7 & Dec. 27-Jan. 6		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Long Island (NAP) Zone	Nov. 16-Nov. 25 &	2	4
	Dec. 17-Jan. 20	2	4
Lake Champlain (AP) Zone	Oct. 27-Nov. 25	2	4
Northeastern (AP) Zone	Oct. 27-Nov. 25	2	4
Southeastern (AP) Zone	Nov. 3-Nov. 17 &	2	4
	Dec. 29-Jan. 12	2	4
Western (AP) Zone	Oct. 27-Nov. 14 &	2	4
	Dec. 27-Jan. 6	2	4
Southwest (SJBP) Zone	Oct. 27-Dec. 13 &	2	4
	Dec. 22-Jan. 12	2	4
(special season)	Jan. 15-Feb. 15	5	10
Light Geese:			
Long Island Zone	Oct. 6-Oct. 18 &	15	--
	Nov. 16-Nov. 25 &	15	--
	Dec. 17-Mar. 10	15	--
Lake Champlain Zone	Oct. 10-Dec. 28 &	15	--
	Mar. 1-Mar. 10	15	--
Northeastern Zone	Oct. 6-Jan. 10 &	15	--
	Mar. 1-Mar. 10	15	--
Southeastern Zone	Oct. 13-Jan. 17 &	15	--
	Mar. 1-Mar. 10	15	--
Western Zone	Oct. 20-Jan. 24 &	15	--
	Mar. 1-Mar. 10	15	--
Brant:			
Long Island Zone	Nov. 16-Nov. 25 &	2	4
	Dec. 12-Jan. 20	2	4
Lake Champlain Zone	Oct. 10-Nov. 28	2	4
Northeastern Zone	Oct. 6-Nov. 24	2	4
Southeastern Zone	Oct. 13-Dec. 1	2	4
Western Zone	Oct. 13-Dec. 1	2	4
North Carolina			
Ducks (12):		6	12
Canvasbacks	Dec. 28-Jan. 19		
Other ducks	Oct. 3-Oct. 6 & Nov. 3-Nov. 24 & Dec. 8-Jan. 19		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Western Unit	Nov. 3-Dec. 31	2	4
Remainder of State	Closed		

	Season Dates	Limits Bag	Limits Possession
North Carolina (cont.)			
Light Geese	Oct. 22-Oct. 31 &	15	--
	Nov. 16-Mar. 9	15	--
Brant	Nov. 10-Nov. 24 &	2	4
	Dec. 8-Jan. 19	2	4
Pennsylvania			
Ducks:		6	12
North Zone:			
Canvasbacks	Nov. 2-Nov. 24		
Other ducks	Oct. 6-Nov. 24 & Dec. 22-Jan. 10		
South Zone:			
Canvasbacks	Dec. 1-Dec. 24		
Other ducks	Oct. 6-Oct. 13 & Nov. 15-Jan. 15		
Northwest Zone:			
Canvasbacks	Dec. 1-Dec. 24		
Other ducks	Oct. 6-Oct. 20 & Nov. 3-Dec. 27		
Lake Erie Zone:			
Canvasbacks	Dec. 14-Jan. 5		
Other ducks	Oct. 29-Nov. 3 & Nov. 8-Jan. 9		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Eastern (AP) Zone	Nov. 15-Nov. 24 &	2	4
	Dec. 20-Jan. 12	2	4
Western (SJBP) Zone	Nov. 15-Dec. 31	2	4
(special season)	Jan. 15-Feb. 15	5	10
Pymatuning Zone	Nov. 15-Dec. 25	1	2
Light Geese	Nov. 6-Mar. 9	15	--
Brant	Oct. 6-Dec. 3	2	4
Rhode Island			
Ducks:		6	12
Canvasbacks	Jan. 1-Jan. 20		
Other ducks	Oct. 12-Oct. 15 & Nov. 17-Nov. 25 & Dec. 5-Jan. 20		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese	Nov. 22-Nov. 25 &	2	4
	Dec. 11-Jan. 20	2	4
(special season)	Jan. 21-Feb. 15	5	10
Light Geese	Oct. 12-Jan. 20	15	--
Brant	Nov. 17-Nov. 25 &	2	4
	Dec. 11-Jan. 20	2	4

	Season Dates	Limits Bag	Limits Possession
South Carolina			
Ducks (13):		6	12
Canvasbacks	Jan. 1-Jan. 20		
Other ducks	Nov. 21-Nov. 24 & Nov. 26-Jan. 20		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese (special season)	Nov. 21-Nov. 24 &	5	10
	Nov. 26-Jan. 30	5	10
Light Geese	Same as for ducks	5	10
Brant	Dec. 2-Jan. 20	2	4
Vermont			
Ducks:		6	12
Lake Champlain Zone:			
Canvasbacks	Nov. 6-Nov. 25		
Other ducks	Oct. 10-Oct 14 & Oct. 20-Dec. 13		
Interior Zone:			
Canvasbacks	Nov. 6-Nov. 25		
Other ducks	Oct. 10-Dec.8		
Connecticut River Zone:			
Canvasbacks	Closed		
Other ducks	Oct. 2-Nov. 4 & Nov. 21-Dec. 16		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese	Oct. 27-Nov. 25	1	2
Light Geese	Oct. 10-Dec. 28 &	15	--
	Mar. 1-Mar. 10	15	--
Brant	Oct. 10-Nov. 28	2	4
Virginia			
Ducks (14):		5	10
Canvasbacks	Dec. 28-Jan. 19		
Other ducks	Oct. 10-Oct. 13 & Nov. 16-Jan. 19		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Back Bay Area	Closed	--	--
Eastern (AP) Zone	Nov. 21-Nov. 24 &	1	2
	Dec. 21-Jan. 19	1	2
Western (SJBP) Zone	Nov. 16-Nov. 24 &	2	4
	Dec. 8-Jan. 14	2	4
(special season)	Jan. 15-Feb. 15	4	8
Light Geese	Nov. 6-Mar. 9	15	--
Brant	Nov. 23-Jan. 19	2	4
West Virginia			
Ducks (15):		6	12
Zone 1:			
Canvasbacks	Jan. 1-Jan. 20		
Other ducks	Oct. 1-Oct. 14 & Dec. 6-Jan. 20		
West Virginia (cont.)			
Zone 2:			
Canvasbacks	Dec. 18-Jan. 6		
Other ducks	Oct. 1-Oct. 14 & Nov. 22-Jan. 6		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Canada Geese:			
Zone 1	Oct. 1-Oct. 14 &	3	6
	Dec. 7-Jan. 31	3	6
Zone 2	Oct. 1-Oct. 28 &	3	6
	Dec. 21Jan. 31	3	6
Light Geese:			
Zone 1	Same as for Canada geese	5	10
Zone 2	Same as for Canada geese	5	10
Brant	Dec. 1-Jan. 19	2	4

(1) In Connecticut, the season is closed for black ducks prior to November 16 in the North Zone and prior to November 20 in the South Zone.
(2) In Delaware, the season on black ducks is only open November 19 through January 15.
(3) In Delaware, the January 21 to March 9 snow goose season is open Mondays, Wednesdays, Fridays, and Saturdays only.
(4) In Florida, the Canada goose season is only open in the Florida waters of Lake Seminole in Jackson County that are south of SR2, north of the Jim Woodruff Dam, and east of SR271.
(5) In Florida, the light goose season is only open north and west of the Suwannee River.
(6) In Maine, the season is closed for black ducks October 1 through October 5; in addition to the daily bag limit, 2 additional teal may be taken. A possession limit of 12 ducks is permitted provided it includes 4 or more teal.
(7) In Maryland, the black duck season is closed October 6 through October 13. In addition to the daily bag limit, 1 additional teal may be taken.
(8) In Maryland, the February 1 to March 9 snow goose season is open Mondays, Wednesdays, Fridays, and Saturdays only.
(9) In Massachusetts, the daily bag limit may include no more than 4 of any single species in addition to the flyway-wide bag restrictions.
(10) In New Jersey, the daily bag limit for buffleheads is 4.
(11) In New York, in the Lake Champlain Zone, the daily bag limit may include no more than 4 goldeneyes.
(12) In North Carolina, the season is closed for black ducks October 3 through October 6 and November 3 through November 24.
(13) In South Carolina, the daily bag limit of 6 may not exceed 1 female mallard and 1 black duck or 1 mottled duck in the aggregate.
(14) In Virginia, the season is closed for black ducks October 10 through October 13 and December 1 through December 15.
(15) In West Virginia, the daily bag limit may include no more than 4 oldsquaws and the season is closed for scoters, eiders, whistling ducks, and mottled ducks.

MISSISSIPPI FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 1 pintail, 1 canvasback, 2 redheads, 3 scaup, and 2 wood ducks. The possession limit is twice the daily bag limit.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession. In states that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 1 daily and 2 in possession may be hooded mergansers.

	Season Dates	Limits Bag	Limits Possession
Alabama			
Ducks:		6	12
North Zone:			
Canvasbacks	Jan. 12-Jan. 31		
Other ducks	Nov. 23-Nov. 25 & Dec. 15-Jan. 31		
South Zone:			
Canvasbacks	Jan. 12-Jan. 31		
Other ducks	Nov. 23-Nov 25 & Dec. 15-Jan. 31		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Dark Geese:			
North Zone:			
SJBP Zone	Dec. 15-Jan. 31	2	4
Rest of North Zone	Sept. 29-Oct. 20 & Dec. 15-Jan. 31	2	4
South Zone	Sept. 29-Oct. 20 & Dec. 15-Jan. 31	2	4
Light Geese	Same as for dark geese	5	5
Arkansas			
Ducks:		6	12
Canvasbacks	Jan. 1-Jan. 20		
Other ducks	Nov. 17-Dec. 20 & Dec. 26-Jan. 20		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (1):	Jan. 9-Jan. 31	2	4
White-fronted	Nov. 7-Jan. 31	2	4
Brant	Closed	--	--
Light Geese	Nov. 7-Jan. 31	20	--
Illinois			
Ducks:		6	12
North Zone:			
Canvasbacks	Nov. 10-Nov. 29		
Other ducks	Oct. 13-Dec. 11		
Central Zone:			
Canvasbacks	Nov. 17-Dec. 6		
Other ducks	Oct. 25-Dec. 23		
South Zone:			
Canvasbacks	Nov. 24-Dec. 13		
Other ducks	Nov. 8-Jan. 6		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (2):			
North Zone:			
Illinois (cont.)			
Northern Illinois Quota Zone (2)	Oct. 13-Oct. 21 &	1	10
	Nov. 10-Jan. 9	1	10
Rest of North Zone	Same as Northern Illinois Quota Zone		
Central Zone:			
Central Illinois Quota Zone (2)	Oct. 25-Oct. 28 &	1	10
	Nov. 17-Dec. 23 &	1	10
	Dec. 24-Jan. 21	2	10
Rest of Central Zone	Same as Central Illinois Quota Zone		
South Zone:			
Southern Illinois Quota Zone (2)(3)	Dec. 15-Dec. 31 &	1	10
	Jan. 1-Jan. 31	2	10
Rend Lake Quota Zone (2)(3)	Same as Southern Illinois Quota Zone		
Rest of South Zone	Same as Southern Illinois Quota Zone		
White-fronted (4):			
North Zone	Oct. 13-Oct. 21 &	2	4
	Nov. 10-Jan. 9	2	4
Central Zone	Oct. 25-Oct. 28 &	2	4
	Nov. 17-Jan. 21	2	4
South Zone	Dec. 15-Jan. 31	2	4
Brant (4)	Same as for light geese		1
2			
Light Geese (4):			
North Zone	Oct. 13-Jan. 9	20	--
Central Zone	Oct. 25-Jan. 21	20	--
South Zone	Nov. 8-Jan. 31	20	–
Indiana			
Ducks:		6	12
North Zone:			
Canvasbacks	Oct. 27-Nov. 15		
Other ducks	Oct. 13-Oct. 15 & Oct. 27-Dec. 22		
South Zone:			
Canvasbacks	Dec. 26-Jan. 14		
Other ducks	Oct. 20-Oct. 26 & Nov. 23-Jan. 14		
Ohio River Zone:			
Canvasbacks	Dec. 26-Jan. 14		
Other ducks	Oct. 27-Oct. 28 & Nov. 24-Jan. 20		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (2):			
North Zone:			
SJBP Area	Oct. 13-Oct. 15 &	2	4
	Oct. 27-Dec. 12	2	4
Rest of North Zone	Oct. 13-Oct. 15 &	2	4
	Oct. 27-Dec. 12	2	4
South Zone:			
Posey County (2)	Dec. 7-Jan. 31	2	4
Rest of South Zone	Nov. 23-Nov. 25 &	2	4
	Dec. 8-Jan. 29	2	4

	Season Dates	Limits Bag	Limits Possession
Indiana (cont.)			
Ohio River Zone:			
Posey County (2)	Dec. 7-Jan. 31	2	4
Rest of Ohio River Zone	Dec. 7-Jan. 31	2	4
White-fronted and Brant	Oct. 13-Oct. 15 &	1	2
	Oct. 20-Jan. 31	1	2
Light Geese	Oct. 13-Oct. 15 &	20	–
	Oct. 20-Jan. 31	20	--
Iowa			
Ducks:		6	12
North Zone:			
Canvasbacks	Oct. 27-Nov. 15		
Other ducks	Sept. 22-Sept. 26 &		
	Oct. 13-Dec. 6		
South Zone:			
Canvasbacks	Nov. 17-Dec. 6		
Other ducks	Sept. 22-Sept. 26 &		
	Oct. 13-Dec. 6		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
North Zone	Sept. 29-Dec. 7	2	4
South Zone	Sept. 29-Oct. 21 &	2	4
	Nov. 10-Dec. 26	2	4
White-fronted:			
North Zone	Same as for Canada geese	2	4
South Zone	Same as for Canada geese	2	4
Brant:			
North Zone	Same as for Canada geese	2	4
South Zone	Same as for Canada geese	2	4
Light Geese	Sept. 29-Jan. 13	20	--
Kentucky			
Ducks:		6	12
West Zone:			
Canvasbacks	Jan. 1-Jan. 20		
Other ducks	Nov. 22-Jan. 20		
East Zone:			
Canvasbacks	Jan. 1-Jan. 20		
Other ducks	Nov. 22-Jan. 20		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (2):			
Western Goose Zone (2):			
Fulton County	Dec. 13-Feb. 15	2	4
Rest of Zone	Dec. 13-Jan. 31	2	4
Pennyroyal/Coalfield Zone	Dec. 13-Jan. 31	2	4
Rest of State	Dec. 13-Jan. 31	2	4
White-fronted	Nov. 22-Jan. 31	2	4
Brant	Dec. 13-Jan. 31	2	4

	Season Dates	Limits Bag	Limits Possession
Kentucky (cont.)			
Light Geese			
Western Goose Zone:			
Fulton County (5):	Nov. 22-Feb. 15	20	–
Rest of Zone:	Nov. 22-Feb. 3	20	–
Rest of State	Nov. 22-Feb. 3	20	--
Louisiana			
Ducks:		6	12
West Zone:			
Canvasbacks	Jan. 1-Jan. 20		
Other ducks	Nov. 10-Dec. 2 &		
	Dec. 15-Jan. 20		
East Zone (including Catahoula Lake):			
Canvasbacks	Jan. 1-Jan. 20		
Other ducks	Nov. 17-Dec. 2 &		
	Dec. 8-Jan. 20		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (6)	Jan. 15-Jan. 23	1	2
White-fronted and Brant:			
West Zone	Nov. 3-Dec. 2 &	2	4
	Dec. 15-Feb. 8	2	4
East Zone	Oct. 27-Dec. 2 &	2	4
	Dec. 8-Jan. 25	2	4
Light Geese:			
West Zone	Nov. 3-Dec. 2 &	20	–
	Dec. 15-Feb. 8	20	--
East Zone	Oct. 27-Dec. 2 &	20	–
	Dec. 8-Jan. 25	20	--
Michigan			
Ducks (7):		6	12
North Zone:			
Canvasbacks	Nov. 8-Nov. 27		
Other ducks	Sept. 29-Nov. 27		
Middle Zone:			
Canvasbacks	Nov. 8-Nov. 27		
Other ducks	Sept. 29-Nov. 27		
South Zone:			
Canvasbacks	Nov. 13-Dec. 2		
Other ducks	Oct. 6-Dec. 2 &		
	Jan. 5-Jan. 6		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (2):			
MVP Zone:			
Muskegon Wastewater Goose Management Unit (GMU) (2)	Nov. 3-Nov. 14 &	2	4
	Dec. 1-Dec. 13	2	4
Allegan County GMU (2)	Nov. 3-Nov. 11 &	1	2
	Jan. 5-Jan. 20	1	2
Rest of MVP Zone	Sept. 17-Oct. 3	2	4

	Season Dates	Limits Bag	Limits Possession
Michigan (cont.)			
SJBP Zone:			
Saginaw County GMU (2)	Oct. 6-Nov. 24	1	2
Tuscola/Huron GMU (2)	Oct. 6-Nov. 24	1	2
Rest of SJBP Zone	Sept. 17-Oct. 7 &	2	4
	Dec. 15-Dec. 23	2	4
Special Season:			
Southern Michigan GMU	Jan. 5-Feb. 3	5	10
Central Michigan GMU	Jan. 5-Feb. 3	5	10
White-fronted and Brant	Sept. 17-Dec. 2	1	2
Light Geese	Sept. 17-Dec. 2	10	30
Minnesota			
Ducks:		6	12
Canvasbacks	Oct. 13-Nov. 1		
Other ducks	Sept. 29-Nov. 27		
Mergansers	Same as for Other ducks	5	10
Coots (8)	Same as for Other ducks	15	30
Geese:			
Canada (2):			
West Zone:			
West Central Zone:			
Lac qui Parle Zone (2)	Oct. 6-Nov. 14	1	2
Rest of West Central Zone	Oct. 6-Nov. 14	1	2
Rest of West Zone	Sept. 29-Nov. 7	1	2
(Special season)	Dec. 8- Dec. 17	5	10
Northwest Zone	Sept. 29-Nov. 7	1	2
(Special season)	Dec. 8-Dec. 17	5	10
Southeast Zone	Sept. 29-Dec. 7	2	4
(special season)	Dec. 14-Dec. 23	2	4
Rest of State	Sept. 29-Dec. 7	2	4
(special season)	Dec. 8-Dec. 17	5	10
White-fronted (9)	Sept. 29-Dec. 23	2	4
Brant (9)	Sept. 29-Dec. 23	1	2
Light Geese (9)	Sept. 29-Dec. 23	20	40
Mississippi			
Ducks:		6	12
Canvasbacks	Jan. 11-Jan. 30		
Other ducks	Dec. 1-Dec. 2 &		
	Dec. 8-Dec. 9 &		
	Dec. 15-Jan. 30		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada	Nov. 23-Jan. 31	3	6
White-fronted	Nov. 7-Jan. 31	2	4
Brant	Nov. 23-Jan. 31	2	4
Light Geese	Oct. 17-Jan. 31	20	--
Missouri			
Ducks and Mergansers:		6	12
North Zone:			
Canvasbacks	Oct. 27-Nov. 15		
Other ducks/mergansers	Oct. 27-Dec. 25		
Middle Zone:			

	Season Dates	Limits Bag	Limits Possession
Missouri (cont.)			
Canvasbacks	Nov. 3-Nov. 22		
Other ducks/mergansers	Nov. 3-Jan. 1		
South Zone:			
Canvasbacks	Jan. 1-Jan. 20		
Other ducks/mergansers	Nov. 22-Jan. 20		
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
North Zone:			
Swan Lake Zone	Oct. 27-Nov. 25 &	2	4
	Dec. 15-Jan. 13	2	4
Rest of North Zone	Sept. 29-Oct. 8 &	3	6
	Oct. 27-Nov. 25 &	2	4
	Dec. 22-Jan. 20	2	4
Middle Zone:			
Southeast Zone	Nov. 22-Jan. 30	2	4
Rest of Middle Zone	Sept. 29-Oct. 8 &	3	6
	Nov. 3-Nov. 25 &	2	4
	Dec. 22-Jan. 20	2	4
South Zone	Nov. 22-Jan. 30	2	4
White-fronted:			
North Zone:			
Swan Lake Zone	Oct. 27-Nov. 25 &	2	4
	Dec. 15-Jan. 30	2	4
Rest of North Zone	Sept. 29-Oct. 8 &	2	4
	Oct. 27-Nov. 25 &	2	4
	Dec. 22-Jan. 30	2	4
Middle Zone:			
Southeast Zone	Nov. 22-Jan. 30	2	4
Rest of Middle Zone	Sept. 29-Oct. 8 &	2	4
	Nov. 3-Nov. 25 &	2	4
	Dec. 22-Jan. 30	2	4
South Zone	Nov. 22-Jan. 30	2	4
Brant	Same as for Canada geese	2	4
Light Geese:			
North Zone:			
Swan Lake Zone	Oct. 27-Jan. 30	20	--
Rest of North Zone	Oct. 27-Jan. 30	20	--
Middle Zone:			
Southeast Zone	Nov. 22-Jan. 30	20	--
Rest of Middle Zone	Nov. 3-Jan. 30	20	--
South Zone	Nov. 22-Jan. 30	20	--
Ohio			
Ducks:		6	12
North Zone:			
Canvasbacks	Nov. 6-Nov. 25		
Other ducks	Oct. 20-Nov. 25 &		
	Dec. 1-Dec. 23		
South Zone:			
Canvasbacks	Dec. 8-Dec. 27		
Other ducks	Oct. 27-Nov. 11 &		
	Dec. 8-Jan. 20		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30

	Season Dates	Limits Bag	Limits Possession
Ohio (cont.)			
Geese:			
Canada:			
North Zone:			
Lake Erie SJBP Zone	Oct. 20-Oct. 28 &	1	2
	Dec. 8-Jan. 2	1	2
Rest of North Zone	Oct. 20-Nov. 25 &	2	4
	Dec. 1-Jan. 2	2	4
(special season)	Jan. 12-Jan. 30	2	4
South Zone	Oct. 27-Nov. 11 &	2	4
	Dec. 8-Jan. 30	2	4
White-fronted and Brant	Same as for Canada geese	2	4
Light Geese	Same as for Canada geese	10	30
Tennessee			
Ducks:		6	12
Reelfoot Zone:			
Canvasbacks	Dec. 30-Jan. 18		
Other ducks	Nov. 17-Nov. 18 &		
	Dec. 1-Jan. 18		
State Zone:			
Canvasbacks	Jan. 12-Jan. 31		
Other ducks	Dec. 1-Dec. 3 &		
	Dec. 15-Jan. 31		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada (2)(10):			
Northwest Zone (2)	Dec. 13-Feb. 15	2	4
Southwest Zone	Dec. 13-Jan. 31	2	4
Kentucky/Barkley Lakes Zone	Dec. 13-Jan. 31	2	4
Rest of State (10)	Oct. 6-Oct. 14 &	2	4
	Dec. 1-Jan. 30	2	4
White-fronted	Nov. 22-Feb. 15	2	4
Brant	Dec. 1-Jan. 31	2	4
Light Geese	Nov. 17-Mar. 3	20	--
Wisconsin			
Ducks:		6	12
North Zone:			
Canvasbacks	Oct. 20-Nov. 8		
Other ducks	Sept. 29-Nov. 27		
South Zone:			
Canvasbacks	Oct. 20-Nov. 8		
Other ducks	Sept. 29-Nov. 27		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	10	20
Geese:			
Canada (2):			
Horicon Zone	Sept. 17-Dec. 19	Tag System--See State Regulations	
Collins Zone	Sept. 17-Nov. 16 &	Tag System--See State Regulations	
	Nov. 26-Nov. 30	Tag System--See State Regulations	

	Season Dates	Limits Bag	Limits Possession
Wisconsin (cont.)			
Exterior Zone:			
Rock Prairie Subzone	Oct. 6-Dec. 14	1	2
Mississippi River Subzone	Oct. 13-Dec. 21	1	2
Brown County Subzone	Oct. 6-Dec. 14	1	2
Rest of Exterior Zone:			
North Duck Zone	Oct. 6-Dec. 14	1	2
South Duck Zone	Oct. 6-Dec. 14	1	2
White-fronted and Brant	Same as for Canada geese	1	2
Light Geese	Same as for Canada geese	10	30

(1) In Arkansas, shooting hours for Canada geese are one-half hour before sunrise to noon.
(2) Harvests of Canada geese will be limited by quotas established in the September 27, 2001, Federal Register. When it has been determined that the quota of Canada geese allotted to the Northern Illinois, Central Illinois, Southern Illinois and Rend Lake Quota Zones in Illinois, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky, the Allegan County, Muskegon Wastewater, Saginaw County, and Tuscola/Huron Goose Management Units in Michigan, the Lac Qui Parle Zone in Minnesota, the Northwest Zone in Tennessee, and the Exterior Zone in Wisconsin will have been filled, the season for taking Canada geese in the respective zone (and associated area, if applicable) will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.
(3) In Illinois, shooting hours for geese in the Southern Illinois and Rend Lake Quota Zones through January 28 shall close at 3 p.m.
(4) In Illinois, white-fronted goose, light goose, and brant seasons will close with Canada goose seasons if the season closes early due the quota being reached.
(5) In Kentucky, in Fulton County, if the Canada goose season closes after January 31 and before February 15, the season for light geese will close with the Canada goose season.
(6) In Louisiana, during the Canada goose season, a special permit is required by the State.
(7) In Michigan, the daily bag limit includes no more than 1 hen mallard.
(8) In Minnesota, the daily bag limit is 15 and the possession limit is 30 coots and moorhens in the aggregate.
(9) In Minnesota, in the Lac Qui Parle Zone, seasons for white-fronted geese, brant, and light geese are open only when the Canada goose season is open.
(10) In Tennessee, see State regulations for permit requirements and additional restrictions.

CENTRAL FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 5 mallards (2 female mallards), 1 mottled duck, 1 pintail, 2 redheads, 1 canvasback, 3 scaup, and 2 wood ducks. The possession limit is twice the daily bag limit.
Merganser Limits: The daily bag limit is 5 mergansers with 10 in possession and may include no more than 1 hooded merganser daily and 2 in possession. In states that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 1 daily and 2 in possession may be hooded mergansers.

	Season Dates	Limits Bag	Limits Possession
Colorado			
Ducks:		6	12
Canvasbacks	Sept. 29-Oct. 21		
Other ducks	Sept. 29-Oct. 21 & Nov. 3-Nov. 29 & Dec. 6-Jan. 20		
Coots	Same as for Other ducks	15	30
Mergansers	Same as for Other ducks	5	10
Dark Geese:			
Northern Front Range Unit	Sept. 29-Oct. 10 &	5	10
	Nov. 17-Feb. 17	5	10
South Park/San Luis Valley Unit (1)	Sept. 29-Oct. 10 &	2	4
	Nov. 17-Feb. 17	2	4
North Park Unit (1)	Sept. 29-Oct. 10 &	2	4
	Nov. 17-Feb. 17	2	4
Arkansas Valley Unit (2)	Nov. 17-Feb. 17	5	10
Pueblo County	Dec. 9-Feb. 17	2	4
Rest of State in Central Flyway	Nov. 17-Feb. 17	5	10
Light Geese:			
Northern Front Range Unit	Nov. 17-Feb. 17	20	--
South Park/San Luis Valley Unit (1)	Nov. 17-Feb. 17	2	4
North Park Unit (1)	Nov. 17-Feb. 17	2	4
Arkansas Valley Unit (2)	Nov. 17-Feb. 17	20	--
Pueblo County	Nov. 17-Feb. 17	20	--
Eastern Colorado Late Light Goose Unit	Nov. 17-Feb. 17 &	20	--
	Feb. 25-Mar. 10	20	--
Rest of State in Central Flyway	Nov. 17-Feb. 17	20	--
Kansas			
Ducks (3):		6	12
High Plains:			
Canvasbacks	Oct. 6-Oct. 30		
Other ducks	Oct. 6-Jan 1 & Jan. 12-Jan. 20		
Low Plains:			
Early Zone:			
Canvasbacks	Oct. 13-Nov. 6		
Other ducks	Oct. 13-Dec. 16 & Dec. 24-Jan. 1		
Late Zone:			
Canvasbacks	Nov. 10-Dec. 4		
Other ducks	Oct. 27-Nov. 4 & Nov. 10-Jan. 13		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Dark Geese (4):			
Canada	Oct. 20-Oct. 21 &	3	6
	Nov. 3-Feb. 3	3	6
White-fronted	Oct. 20-Oct. 21	2	4
	Nov. 3-Jan. 25	2	4
Light Geese	Oct. 20-Feb. 3	20	--

	Season Dates	Limits Bag	Limits Possession
Montana			
Ducks:		6	12
Zone 1:			
Canvasbacks	Sept. 29-Oct. 23		
Other ducks	Sept. 29-Jan. 3		
Zone 2:			
Canvasbacks	Sept. 29-Oct. 23		
Other ducks	Sept. 29-Jan. 3		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Dark Geese	Sept. 29-Jan. 11	4	8
Light Geese	Sept. 29-Jan. 11	5	10
Nebraska			
Ducks:		6	12
High Plains:			
Canvasbacks	Oct. 20-Nov. 13		
Other ducks	Sept. 29-Dec. 9 & Dec. 14-Jan. 6		
Low Plains:			
Zones 1 and 2:			
Canvasbacks	Oct. 20-Nov. 13		
Other ducks	Oct. 13-Oct. 14 & Oct. 20-Dec. 30		
Zones 3 and 4:			
Canvasbacks	Oct. 20-Nov. 13		
Other ducks	Sept. 29-Dec. 9 & Dec. 15-Dec. 16		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
North Unit	Oct. 27-Jan. 29	3	6
East Unit	Sept. 29-Sept. 30 &	3	6
	Oct. 13-Jan. 13	3	6
North Central Unit	Sept. 29-Jan. 1	3	6
Platte River Unit	Oct. 27-Jan. 29	3	6
White-fronted	Sept. 29-Dec. 23	2	4
Light Geese:			
Rainwater Basin Area - East	Sept. 29-Jan. 11	20	--
Rainwater Basin Area - West	Sept. 29-Jan. 11	20	--
Rest of State	Sept. 29-Jan. 11	20	--

	Season Dates	Limits Bag	Limits Possession
New Mexico			
Ducks and Mergansers:		6	12
North Zone:			
Canvasbacks	Nov. 9-Dec. 3		
Other ducks/mergs.	Oct. 6-Oct. 28 & Nov. 9-Jan. 20		
South Zone:			
Canvasbacks	Nov. 9-Dec. 3		
Other ducks/mergs.	Oct. 17-Jan. 20		
Coots	Same as for Other ducks	15	30
Dark Geese (5):			
Middle Rio Grande Valley Unit (5)	Dec. 29-Jan. 13	1 per season	
Rest of State	Oct. 17-Jan. 31	4	8
Light Geese	Oct. 17-Jan. 31	20	80
North Dakota			
Ducks:		6	12
High Plains:			
Canvasbacks	Sept. 29-Oct. 23		
Other ducks	Sept. 29-Dec. 30		
Remainder of State:			
Canvasbacks	Sept. 29-Oct. 23		
Other ducks	Sept. 29-Dec. 9		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada Geese (6):			
Missouri River Zone	Sept. 29-Dec. 21	3	6
Rest of State	Sept. 29-Dec. 21	3	6
White-fronted (6)	Sept. 29-Dec. 21	2	4
Light Geese (6)	Sept. 29-Dec. 21	20	--
Oklahoma			
Ducks:		6	12
High Plains:			
Canvasbacks	Oct. 6-Oct. 30		
Other ducks	Oct. 6-Jan. 9		
Low Plains:			
Zone 1:			
Canvasbacks	Oct. 27-Nov. 20		
Other ducks	Oct. 27-Dec. 2 & Dec. 8-Jan. 13		
Zone 2:			
Canvasbacks	Nov. 3-Nov. 27		
Other ducks	Nov. 3-Dec. 2 & Dec. 8-Jan. 20		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada	Nov. 3-Dec. 2 &	3	6
	Dec. 8-Feb. 10	3	6
White-fronted	Nov. 3-Dec. 2 &	2	4
	Dec. 8-Feb. 1	2	4
Light Geese	Nov. 3-Dec. 2 &	20	--
	Dec. 8-Feb. 10	20	--

	Season Dates	Limits Bag	Limits Possession
South Dakota			
Ducks:		6	12
High Plains:			
Canvasbacks	Oct. 13-Nov. 6		
Other ducks	Sept. 29-Jan. 3		
Low Plains:			
North Zone:			
Canvasbacks	Oct. 13-Nov. 6		
Other ducks	Sept. 29-Dec. 11		
Middle Zone:			
Canvasbacks	Oct. 13-Nov. 6		
Other ducks	Sept. 29-Dec. 11		
South Zone:			
Canvasbacks	Oct. 13-Nov. 6		
Other ducks	Oct. 13-Dec. 25		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
White-fronted	Sept. 29-Dec. 23	2	4
Canada:			
Unit 1	Sept. 29-Dec. 28	3	6
Unit 2	Oct. 20-Jan. 22	3	6
Unit 3:			
Power Plant Area	Sept. 29-Nov. 30 &	3	6
	Dec. 1-Dec. 16	2	4
Rest of Unit	Sept. 29-Dec. 16	3	6
Unit 4	Oct. 27-Dec. 23 &	3	6
	Jan. 5-Jan. 20	3	6
Light Geese	Sept. 29-Dec. 23	20	--
Texas			
Ducks:		6	12
High Plains:			
Canvasbacks	Dec. 27-Jan. 20		
Other ducks	Oct. 20-Oct. 22 & Oct. 27-Jan. 20		
Low Plains:			
North Zone:			
Canvasbacks	Dec. 27-Jan. 20		
Other ducks	Oct. 27-Oct. 28 & Nov. 10-Jan. 20		
South Zone:			
Canvasbacks	Dec. 27-Jan. 20		
Other ducks	Oct. 27-Nov. 25 & Dec. 8-Jan. 20		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
East Tier:			
Canada and brant	Oct. 27-Jan. 20	1	2
White-fronted	Oct. 27-Jan. 20	2	4
Light Geese	Oct. 28-Jan. 21	20	--
West Tier:			
Dark Geese:		5	10
Canada	Oct. 27-Feb. 10	5	10

	Season Dates	Limits Bag	Limits Possession
Texas (cont.)			
White-fronted	Oct. 27-Feb. 10	1	2
Light Geese	Oct. 27-Feb. 10	20	--
Wyoming			
Ducks:		6	12
Zone 1:			
Canvasbacks	Oct. 6-Oct. 21 & Oct. 27-Oct. 30		
Other ducks	Oct. 6-Oct. 21 & Oct. 27-Jan. 15		
Zone 2:			
Canvasbacks	Sept. 29-Oct. 21		
Other ducks	Sept. 29-Oct. 21 & Oct. 27-Jan. 8		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Dark Geese:			
Area 1	Oct. 6-Jan. 19	5	10
Area 2	Oct. 18-Jan. 31	5	10
Area 3	Sept. 29-Oct. 21 &	5	10
	Oct. 27-Jan. 17	5	10
Area 4(7):	Oct 6-Oct. 21 &	1	2
	Nov. 17-Feb. 14	5	10
Light Geese	Oct. 6-Dec. 31 &	10	40
	Jan. 27-Feb. 14	10	40

(1) In Colorado, in the North Park and South Park/San Luis Valley Units, the bag limit for the November 17 through February 17 period is 2 geese. The possession limit is twice the daily bag limit.
(2) In Colorado, in the Arkansas Valley Unit, shooting hours are one-half hour before sunrise to noon November 17 through November 23.
(3) In Kansas, the daily bag limit may include no more than 2 scaup and 1 hen mallard.
(4) See State regulations for additional restrictions.
(5) In New Mexico, the season for dark geese is closed in Bernalillo and Sandoval Counties. In the Middle Rio Grande Valley Unit, a state permit is required.
(6) In North Dakota, the shooting hours for geese are one-half hour before sunrise to 1 p.m. through October 27 and until 2 p.m. the remainder of the season, except that during October 13 through December 21, shooting hours are one-half hour before sunrise to sunset on Saturdays and Wednesdays.
(7) In Wyoming, the shooting hours for dark geese in Goshen County are one-half hour before sunrise to 1 p.m., except during the period October 6 through October 21 and on all Saturdays, Sundays, and Wednesdays after Novermber 30 until the close of the dark goose season, when shooting hours are until sunset. In Platte County, shooting hours for dark geese in the area east of Interstate Highway 25 and north of Wyoming Highway 160 are 1/2 hour before sunrise to sunset. In the remainder of Platte County, shooting hours for dark geese are 1/2 hour before sunrise to 1 p.m. except during the period October 6 through October 21 and on all Saturdays, Sundays, and Wednesdays after November 30 until the close of the dark goose season, when shooting hours are until sunset.

PACIFIC FLYWAY

Flyway-wide Restrictions

Duck and Merganser Limits: The daily bag limit of 7 ducks (including mergansers) may include no more than 2 female mallards, 1 pintail, 2 redheads, 4 scaup, and 1 canvasback. The possession limit is twice the daily bag limit.

Coot and Common Moorhen Limits: Daily bag and possession limits are in the aggregate for the two species.

Goose Limits: Daily bag limits for geese may not exceed 2 white-fronted geese and 3 light geese. The possession limit is twice the daily bag limit.

	Season Dates	Limits Bag	Limits Possession
Arizona			
Ducks (1):		7	14
North Zone			
Canvasbacks	Dec. 14-Jan. 20		
Other ducks	Oct. 12-Jan. 20		
South Zone:			
Canvasbacks	Dec. 14-Jan. 20		
Other ducks	Oct. 12-Jan. 20		
Coots and moorhens	Same as for Other ducks	25	25
Geese:			
Dark (2):			
GMU 22 & 23	Nov. 15-Jan. 20	3	3
GMU 1 & 27	Dec. 1-Jan. 20	3	3
Balance of State	Oct. 15-Jan. 20	3	3
Light (2):			
GMU 22 & 23	Nov. 15-Jan. 20	3	3
Rest of State	Oct. 15-Jan. 20	3	3
California			
Ducks:		7	14
Northeastern Zone:			
Canvasbacks	Oct. 27-Dec. 3		
Other ducks	Oct. 6-Jan. 13		
Colorado River Zone:			
Canvasbacks	Dec. 14-Jan. 20		
Other ducks	Oct. 12-Jan. 20		
Southern Zone:			
Canvasbacks	Dec. 14-Jan. 20		
Other ducks	Oct. 13-Jan. 20		
Southern San Joaquin Valley Zone:			
Canvasbacks	Dec. 14-Jan. 20		
Other ducks	Oct. 13-Jan. 20		
Balance-of-State Zone:			
Canvasbacks	Dec. 14-Jan. 20		
Other ducks	Oct. 13-Jan. 20		
Coots and moorhens:			
Northeastern Zone	Same as for Other ducks	25	25
Colorado River Zone	Same as for Other ducks	25	25
Southern Zone	Same as for Other ducks	25	25
Southern San Joaquin Valley Zone	Same as for Other ducks	25	25
Balance-of-State Zone	Same as for Other ducks	25	25

	Season Dates	Limits Bag	Limits Possession
California (cont.)			
Geese:			
Northeastern Zone:		3	6
Canada Geese	Oct. 6-Jan. 13	2	4
Small Canada Geese (3)	Oct. 6-Nov. 18	1	2
White-fronted Geese	Oct. 6-Nov. 18	2	4
Light Geese	Oct. 6-Jan. 13	3	6
Colorado River Zone:		5	10
Canada Geese	Oct. 15-Jan. 20	3	6
White-fronted Geese	Oct. 15-Jan. 20	3	6
Light Geese	Oct. 15-Jan. 20	3	6
Southern Zone:		5	10
Dark Geese:		3	6
Canada geese	Oct. 20-Jan. 20	3	6
Small Canada Geese (3)	Oct. 20-Jan. 20	1	2
White-fronted Geese	Oct. 20-Jan. 20	3	6
Light Geese	Oct. 20-Jan. 20	3	6
Balance-of-State Zone:		3	6
Dark Geese :		2	4
Canada:			
Del Norte & Humboldt	Closed	--	--
Sacramento Valley Area	Closed	--	--
San Joaquin Valley Area	Closed	--	--
Rest of Zone:			
Canada geese	Nov. 3-Jan. 20	2	4
Small Canada geese (3)	Nov. 3-Jan. 20	1	2
White-fronted:			
Sacramento Valley Closure	Nov. 3-Dec. 14	2	4
Rest of Zone	Nov. 3-Jan. 20	2	4
Light Geese	Nov. 3-Jan. 20	3	6
Brant	Nov. 10-Dec. 9	2	4
Colorado			
Ducks:		7	14
Canvasbacks	Sept. 29-Oct. 14		
Other ducks	Sept. 29-Oct. 14 & Oct. 24-Jan. 20		
Coots	Same as for Other ducks	25	25
Geese:	Sept. 29-Oct. 14 &	2	4
	Oct. 29-Jan. 20	2	4
Idaho			
Ducks:		7	14
Zone 1:			
Canvasbacks	Closed		
Other ducks	Oct. 6-Jan. 18		
Zone 2:			
Canvasbacks	Closed		
Other ducks	Oct. 6-Oct. 17 & Oct. 20-Jan. 20		
Zone 3:			
Canvasbacks	Closed		
Other ducks	Oct. 6-Oct. 17 & Oct. 20-Jan. 20		
Coots	Same as for Other ducks	25	25

	Season Dates	Limits Bag	Limits Possession
Idaho (cont.)			
Geese:			
Zone 1 (4):		4	8
Dark	Oct. 6-Jan. 11	4	8
Light	Oct. 6-Jan. 11	3	6
Zone 2:		3	6
Dark	Oct. 6-Oct. 17 &	3	6
	Oct. 27-Jan. 20	3	6
Light	Oct. 6-Oct. 17 &	3	6
	Oct. 27-Jan. 20	3	6
Zone 3:		3	6
Dark	Oct. 6-Oct. 17 &	2	4
	Oct. 27-Jan. 20	2	4
Light	Oct. 6-Oct. 17 &	3	6
	Oct. 27-Jan. 20	3	6
Montana			
Ducks:		7	14
Canvasbacks	Sept. 29-Nov. 5		
Other ducks	Sept. 29-Jan. 11		
Coots	Same as for Other ducks	25	25
Geese (5):			
Dark	Sept. 29-Jan. 6	4	8
Light	Sept. 29-Jan. 6	3	6
Nevada			
Ducks:		7	14
Lincoln & Clark Counties:			
Canvasbacks	Oct. 27-Dec. 2		
Other ducks	Oct. 13-Jan. 20		
Rest of State:			
Canvasbacks	Oct. 27-Dec. 2		
Other ducks	Oct. 13-Jan. 20		
Coots and moorhens	Same as for Other ducks	25	25
Dark Geese:			
Lincoln & Clark Counties	Nov. 17-Jan. 20	2	4
Scripps/Washoe Lake Zone	Oct. 20-Jan. 20	3	6
Rest of State	Oct. 20-Jan. 20	3	6
Light Geese:			
Lincoln & Clark Counties	Nov. 17-Jan. 20	3	6
Scripps/Washoe Lake Zone	Oct. 20-Jan. 20	3	6
Rest of State (6)	Oct. 20-Jan. 20	3	6
New Mexico			
Ducks:		7	14
Canvasbacks	Oct. 6-Nov. 12		
Other ducks	Oct. 6-Jan. 20		
Coots and Moorhens	Same as for Other ducks	12	24
Dark Geese:			
North Zone	Sept. 29-Oct. 28&	3	6
	Nov. 12-Jan. 20	3	6
South Zone	Oct. 13-Jan. 20	2	4
Light Geese:			
North Zone	Sept. 29-Oct. 28 &	1	2
	Nov. 12-Jan. 20	1	2
South Zone	Oct. 13-Jan. 20	1	2

	Season Dates	Limits Bag	Limits Possession
Oregon			
Ducks:		7	14
Zone 1:			
Columbia Basin Unit:			
Canvasbacks	Nov. 1-Dec. 8		
Other ducks	Oct. 6-Oct. 17 & Oct. 20- Jan. 20		
Rest of Zone 1:			
Canvasbacks	Nov. 1-Dec. 8		
Other ducks	Oct. 6-Oct. 17 & Oct. 20- Jan. 20		
Zone 2:			
Canvasbacks	Nov. 1-Dec. 8		
Other ducks	Oct. 6-Oct. 17 & Oct. 20- Jan. 20		
Coots	Same as for Other ducks	25	25
Geese:			
Northwest General Goose Zone:			
Dark Geese	Oct. 13-Jan. 14	4	8
Light Geese	Oct. 13-Jan. 14	3	6
Northwest Special Permit Zone (7):			
Dark Geese	Nov. 3-Nov. 15 &	4	8
	Nov. 24-Jan. 20 &	4	8
	Feb. 10-Mar. 3	4	8
Dusky Canada geese		1 per season	
Light Geese	Nov. 3-Nov. 15 &	3	6
	Nov. 24-Jan. 20	3	6
Southwest General Zone (8):			
Dark Geese	Oct. 13-Oct. 17 &	4	8
	Oct. 20-Jan. 20	4	8
Light Geese	Oct. 13-Oct. 17 &	3	6
	Oct. 20-Jan. 20	3	6
Eastern Zone:			
Klamath, Harney, Lake, and Malheur Counties:			
Dark Geese	Oct. 6-Oct. 17 &	4	8
	Oct. 20-Jan. 13	4	8
Cackling Canada geese		1	2
White-fronted geese:			
Lake County		2	4
Rest of Zone		4	8
Light Geese	Oct. 6-Oct.17 &	3	6
	Oct. 20-Jan. 13	3	6
Remainder of Eastern Zone:			
Dark Geese	Oct. 13-Oct. 17 &	4	8
	Oct. 20-Jan. 20	4	8
Cackling Canada geese		1	2
White-fronted geese		4	8
Light Geese	Oct. 13-Oct. 17 &	3	6
	Oct. 20-Jan. 20	3	6
Brant	Nov. 3-Nov. 16	2	4

	Season Dates	Limits Bag	Limits Possession
Utah (9)			
Ducks:		7	14
Zone 1:			
Canvasbacks	Oct. 6-Nov. 11		
Other ducks	Oct. 6-Jan. 19		
Zone 2:			
Canvasbacks	Oct. 6-Nov. 11		
Other ducks	Oct. 6-Jan. 19		
Coots	Same as for Other ducks	25	25
Geese:			
Light	Oct. 6-Jan. 13	3	6
Dark:			
Washington County (10)	Oct. 13-Jan. 20	3	6
Rest of State	Oct. 6-Jan. 13	3	6
Washington			
Ducks:		7	14
East Zone:			
Canvasbacks	Dec. 15-Jan. 20		
Other ducks	Oct. 6-Oct 17 & Oct. 20-Jan. 20		
West Zone (11):			
Canvasbacks	Dec. 15-Jan. 20		
Other ducks	Oct. 6-Oct 17 & Oct. 20-Jan. 20		
Coots	Same as for Other ducks	25	25
Geese (12):		4	8
Management Area 1:			
Light Geese	Oct 6-Jan. 6		
Dark Geese	Oct 6-Oct. 25 & Nov. 3-Jan. 20		
Management Area 2A (13)	Nov. 21-Dec. 23 & Dec. 27-Dec. 30 & Jan. 3-Jan. 13		
Dusky Canada geese		1 per season	
Late-Season Canada Geese	Jan. 19-Mar. 10		
Dusky Canada geese		1 per season	
Management Area 2B (13)	Nov. 10-Dec. 30		
Dusky Canada geese		1 per season	
Management Areas 3, 4, & 5 (14)	Oct. 6-Oct. 25 & Nov. 3-Jan. 20		
Brant (15)	Nov. 17-Nov. 23 &	2	4
	Jan. 12-Jan. 20	2	4
Wyoming			
Ducks:		7	14
Canvasbacks	Sept. 29-Nov. 5		
Other ducks	Sept. 29-Jan. 12		
Coots	Same as for Other ducks	25	25
Dark Geese	Sept. 29-Jan. 5	4	8

(1) In Arizona, the daily limit may include no more than either 2 female mallards or 2 Mexican-like ducks, or 1 of each; and not more than 4 female mallards and Mexican-like ducks, in the aggregate, may be in possession.
(2) In Arizona, in Yuma County, La Paz County, Game Management Units 13B, 15, and that portion of Unit 16 lying within Mohave County, the bag and possession limits are 3 and 6 for Canada geese and 3 and 6 for light geese, respectively.
(3) In California, small Canada geese are cackling and Aleutian Canada geese.
(4) In Idaho, the season on light geese is closed in Fremont and Teton Counties.
(5) In Montana, check State regulations for special seasons/exceptions in Freezeout Lake WMA; Canyon Ferry; Flathead; Deer Lodge County; and Missoula County.
(6) In Nevada, there is no open season on light geese in Ruby Valley within Elko and White Pine Counties, White River Valley of Nye County, and Pahranagat Valley of Lincoln County.
(7) In Oregon, the Northwest Special Permit Zone is closed to all goose hunting, except for designated areas. See State regulations for specific boundary descriptions, times, days, and other conditions of the special permit season.
(8) In Oregon, those portions of Coos and Curry Counties west of US 101 are closed to all Canada goose hunting.
(9) In Utah, the shooting hours are 8:00 a.m. to sunset on October 6 in Cache, Salt Lake, Davis, Weber, and Box Elder Counties, and November 3 statewide.
(10) In Utah, the season in Washington County is for Canada geese only.
(11) In Washington, the daily bag limit in the West Zone may include no more than 4 scoters and 4 oldsquaws, with the possession limit twice the daily bag limit. The daily bag and possession limit for harlequins is 1.
(12) In Washington, daily bag and possession limits may include no more than 3 and 6 light geese, respectively.
(13) In Washington, see State regulations for specific dates and conditions of permit hunts and closures for Canada geese.
(14) In Washington, in State Goose Area 4, hunting is only on Saturdays, Sundays, Wednesdays, and certain holidays. In State Goose Areas 3 and 5, hunting is everyday. See State regulations for details, including shooting hours.
(15) In Washington, brant may be hunted in Skagit and Pacific Counties only; see State regulations for specific dates.

(f) Youth Waterfowl Hunting Day

The following seasons are open only to youth hunters. Youth Hunters must be accompanied into the field by an adult at least 18 years of age. This adult can not duck hunt but may participate in other open seasons.

Definition

Youth Hunters: Includes youths 15 years of age or younger.

NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2001, Federal Register (66 FR 45730). Bag and possession limits will conform to those set for the regular season.

	Season Dates
ATLANTIC FLYWAY	
Connecticut	
Ducks (except canvasbacks), mergansers, coots, and geese	Oct. 6 & 8
* * * * *	
Florida	
Ducks, mergansers, coots, moorhens, and light geese (9)	Jan. 26 & 27
* * * * *	
Massachusetts	
Ducks, mergansers, and coots	Oct. 6 & 8
* * * * *	
New York	
Ducks, coots, mergansers, and Canada geese:	
Long Island Zone	Nov. 3 & 4
Lake Champlain Zone	Sept. 22 & 23
Northeastern Zone	Sept. 29 & 30
Southeastern Zone	Sept. 29 & 30
Western Zone	Oct. 6 & 7
* * * * *	
North Carolina	
Ducks, mergansers, and coots	
Jan. 26	
* * * * *	
South Carolina	
Ducks and geese	
Jan. 26 & 27	
* * * * *	
Virginia	
Ducks, mergansers, coots, moorhens, gallinules, and Canada geese (10)	Oct. 21
* * * * *	
MISSISSIPPI FLYWAY	
* * * * *	
Arkansas	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Jan. 26 & 27
Illinois	
Ducks, mergansers, coots, and geese (10):	
North Zone	Oct. 6 & 7
Central Zone	Oct. 20 &21
South Zone	Oct. 27 & 28
Indiana	
Ducks, mergansers, coots, moorhens, gallinules, and Canada geese:	
North Zone	Oct. 6 & 7
South Zone	Nov. 10 & 11
Ohio River Zone	Nov. 10 & 11

	Season Dates
Iowa	
Ducks, Canada geese, snow geese, mergansers, and coots	Oct. 6 & 7
* * * * *	
Louisiana	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
West Zone	Nov. 3 & 4
East Zone	Nov. 10 & 11
* * * * *	
Mississippi	
Ducks, mergansers, coots, moorhens, gallinules, and geese	Nov. 24 & 25
Missouri	
Ducks, coots, and geese:	
North Zone	Oct. 20 & 21
Middle Zone	Oct. 27 & 28
South Zone	Nov. 17 & 18
Ohio	
Ducks, mergansers, coots, moorhens, gallinules, and geese	Oct. 13 & 14
Tennessee	
Ducks, mergansers, and coots	Feb. 9 & 10
* * * * *	
CENTRAL FLYWAY	
* * * * *	
Kansas (5)	
Ducks, dark geese, mergansers and coots:	
High Plains	Sept. 29 & 30
Low Plains	
Early Zone	Oct. 6 & 7
Late Zone	Oct. 13 & 14
* * * * *	
Oklahoma	
Ducks, mergansers, coots, and geese:	
High Plains	Sept. 29 & 30
Low Plains:	
Zone 1	Oct. 20 & 21
Zone 2	Oct. 27 & 28
* * * * *	

	Season Dates
Texas	
Ducks, mergansers, and coots:	
High Plains	Oct. 13 & 14
Low Plains:	
North	Oct. 20 & 21
South	Oct. 20 & 21
* * * * *	

* * * * *

(5) In Kansas, the adult accompanying the youth and nonresident youth, must be licensed and possess state and federal duck stamps as required by state or federal regulation to hunt waterfowl.

* * * * *

(9) In Florida, the light goose season is only open north and west of the Suwannee River.
(10) In Illinois and Virginia, the daily bag limit for Canada geese is 1.

4. Section 20.106 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and Hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 21, 2001, Federal Register (66 FR 44010).

Note: The following seasons are in addition to the seasons published previously in the August 29, 2001, Federal Register (66 FR 45730).

	Season Dates	Limits	
		Bag	Possession
CENTRAL FLYWAY			
* * * * *			
Oklahoma (1)	Nov. 3-Feb. 3	3	6
* * * * *			
Texas (1):			
Zone A	Nov. 10-Feb. 10	3	6
Zone B	Dec. 1-Feb. 10	3	6
Zone C	Dec. 29-Jan. 20	2	4

(1) Each hunter participating in a regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.

* * * * *

5. Section 20.107 is revised to read as follows:

§20.107 Seasons, limits, and shooting hours for swans.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Hunting is by State permit only.

NOTE: Successful permittees must immediately validate their harvest by that method required in State regulations.

	Season Dates	Limits Bag	Limits Possession
ATLANTIC FLYWAY			
North Carolina	Oct. 22-Jan. 31	1 tundra swan per season	
Virginia	Dec. 1-Jan 31	1 tundra swan per season	
CENTRAL FLYWAY (1)			
Montana	Sept. 29-Jan. 3	1 tundra swan per season	
North Dakota	Sept. 29-Dec. 9	1 tundra swan per season	
South Dakota	Sept. 29-Dec. 23	1 tundra swan per permit	
PACIFIC FLYWAY (1)(2)			
Montana (3)	Oct. 13-Dec. 1	1 swan per season	
Nevada (3)(4)	Oct. 20-Jan. 6	1 swan per season	
Utah (3)(4)	Oct. 6-Dec. 9	1 swan per season	

(1) See State regulations for description of area open to swan hunting.
(2) Any species of swan may be taken.
(3) All harvested swans and tags must be checked or registered within 3 days of harvest.
(4) Harvests of trumpeter swans are limited to 5 in Nevada and 10 in Utah. When it has been determined that the quota of trumpeter swans allotted to Nevada and Utah will have been filled, the season for taking of any swan species in the respective State will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

6. Section 20.109 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise restricted by State regulations. Area descriptions were published in the August 21 and September 27 Federal Registers.

Limits: The daily bag limit may include no more than 3 migratory game birds, singly or in the aggregate. The possession limit is twice the daily bag limit.

These limits apply to falconry during both regular hunting seasons and extended falconry seasons -- unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits.

Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas.

Although many States permit falconry during the gun seasons, only extended falconry seasons are shown below. Please consult State regulations for details.

NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2001, Federal Register (66 FR 45730).

	Extended Falconry Dates
ATLANTIC FLYWAY	
Delaware	
* * * * *	
Ducks, mergansers, and coots	Jan. 25-Mar. 9
Brant	Oct. 23-Nov. 8 & Jan. 21-Mar. 9
Florida	
* * * * *	
Ducks, light geese and coots (6)	Nov. 1-Nov. 12 & Feb. 1-Feb. 28
Georgia	
Sea Ducks	Nov. 10-Nov. 16 & Nov. 26-Nov. 30 & Jan. 21-Feb. 15
Ducks, mergansers, gallinules, and coots	Nov. 10-Nov. 16 & Nov. 26-Nov. 30 & Jan. 21-Feb. 15
Maine	
Ducks, mergansers, and coots (4):	
North Zone	Dec. 10-Jan. 31
South Zone	Jan. 7-Feb. 28

	Extended Falconry Dates
Maryland	
* * * * *	
Ducks	Oct. 1-Oct. 5 & Jan. 21-Mar. 8
Brant	Jan. 21-Mar. 9
Massachusetts	
Ducks, mergansers, and coots:	
Western Zone	Oct. 5-Oct. 8 & Nov. 26-Dec. 10 & Jan. 2-Jan. 19
Central Zone	Oct. 5-Oct. 9 & Nov. 26-Dec. 13 & Jan. 7-Jan. 19
Coastal Zone	Oct. 5-Oct. 10 & Oct. 29-Nov. 21 & Jan. 14-Jan. 19
New Hampshire	
Ducks, mergansers, and coots:	
Inland Zone	Nov. 5-Nov. 20 & Dec. 17-Jan. 14
Coastal Zone	Jan. 25-Mar. 10
New Jersey	
Woodcock:	
North Zone	Oct. 1-Oct. 17 & Nov. 12-Jan. 15
South Zone	Oct. 1-Nov. 9 & Nov. 26-Dec. 20 & Dec. 31-Jan. 15
Ducks:	
North Zone	Oct. 1-Oct. 12 & Nov. 5-Nov. 16 & Jan. 4-Jan. 31
South Zone	Oct. 1-Oct. 19 & Dec. 3-Dec. 13 & Jan. 10-Jan. 31
Coastal Zone	Oct. 1-Nov. 2 & Nov. 14-Nov. 21 & Jan. 21-Jan. 31

	Extended Falconry Dates
New York	
Ducks, mergansers and coots:	
Long Island Zone	Nov. 1-Nov. 15 & Nov. 26-Dec. 1 & Jan. 21-Jan. 31
Northeastern Zone	Oct. 1-Oct. 5 & Nov. 13-Nov. 16 & Dec. 9-Dec. 31
Southeastern Zone	Oct. 1-Oct. 12 & Oct. 22-Nov. 2 & Dec. 24-Dec. 31
Western Zone	Oct. 1-Oct. 19 & Dec. 8-Dec. 26
Pennsylvania	
Mourning doves	Oct. 6-Oct. 26 & Nov. 26-Dec.11
Ducks:	
North Zone	Nov. 26-Dec. 20 & Jan. 11-Jan. 15 & Feb. 15-Mar. 9
South Zone	Oct. 15-Nov. 13 & Feb. 15-Mar. 9
Northwest Zone	Oct. 22-Nov. 1 & Dec. 28-Jan. 15 & Feb. 15-Mar. 9
Lake Erie Zone	Nov. 5-Nov. 8 & Jan. 10-Jan. 15 & Jan. 26-Mar. 9
Canada Geese:	
Western Zone	Jan. 1-Jan. 14
Pymatuning Zone	Jan. 15-Mar. 9
Eastern Zone	Jan. 9-Mar. 9
Brant	Dec. 8-Feb. 11

	Extended Falconry Dates
South Carolina	
Ducks, mergansers, and coots	Oct. 15-Nov. 20 & Nov. 25 only
Virginia	
* * * * *	
Ducks, mergansers, coots, moorhens, and gallinules	Nov. 14-Nov. 15 & Jan. 21-Feb. 28
Canada Geese	Feb. 16-Mar. 7
Brant	Nov. 6-Nov. 22 & Jan. 21-Mar. 9
MISSISSIPPI FLYWAY	
Arkansas	
Ducks, mergansers, and coots	Dec. 21-Dec. 25 & Jan. 21-Feb. 15
Illinois	
* * * * *	
Ducks, mergansers, and coots	Feb. 10-Mar. 10
Indiana	
* * * * *	
Ducks, mergansers, and coots:	
North Zone	Sept. 29-Oct. 5 & Feb. 17-Mar. 10
South Zone	Oct. 7-Oct. 13 & Feb. 17-Mar. 10
Ohio River Zone	Oct. 7-Oct. 13 & Feb. 17-Mar. 10
Iowa	
Ducks, mergansers, and coots	Dec. 15-Jan. 28
Dark Geese:	
North Zone	Dec. 8-Jan. 13
South Zone	Oct. 22-Nov. 9 & Dec. 27-Jan. 13

	Extended Falconry Dates
Kentucky	
Ducks, mergansers, and coots	Nov. 5-Nov. 21 & Jan. 21-Jan. 31
Canada Geese:	
Western Goose Zone	Nov. 6-Dec. 12
Pennyroyal/Coalfield Zone	Nov. 5-Dec. 12
Rest of State	Nov. 5-Dec. 12
White-fronted geese and brant	Nov. 5-Nov. 21
Light geese	Nov. 5-Nov. 21
Michigan	
* * * * *	
Ducks, mergansers, coots, and moorhens:	
North Zone	Sept. 7-Sept. 28 & Nov. 28-Dec. 10 & Mar. 1-Mar. 10
Middle Zone	Sept. 7-Sept. 28 & Nov. 28-Dec. 10 & Mar. 1-Mar. 10
South Zone	Sept. 7-Oct. 5 & Dec. 3-Dec. 10 & Mar. 1-Mar. 10
Minnesota	
* * * * *	
Ducks, mergansers, coots, moorhens, and gallinules	Nov. 28-Jan. 12
Mississippi	
Mourning Doves	Nov. 24-Dec. 16 & Jan. 13-Feb. 5
Ducks, mergansers and coots	Feb. 1-Mar. 10
Missouri	
* * * * *	
Ducks, mergansers, and coots:	
North Zone	Sept. 8-Sept. 23 & Sept. 26-Oct. 26
Middle Zone	Sept. 8-Sept. 23 & Oct. 3-Nov. 2
South Zone	Sept. 8-Sept. 23 & Oct. 22-Nov. 21

	Extended Falconry Dates
Ohio	
Ducks, mergansers, and coots	Sept. 1-Sept. 16 & Oct. 13-Oct. 14 & Feb. 1-Feb. 28
Tennessee	
* * * * *	
Ducks, mergansers, and coots	Sept. 13-Oct. 31
Wisconsin	
Mourning doves	Oct. 31-Dec. 16
Rails, snipe, moorhens, and gallinules	Sept. 1-Sept. 28 & Nov. 28-Dec. 16
Woodcock	Sept. 1-Sept. 21 & Nov. 6-Dec. 16
Ducks, mergansers, and coots	Jan. 25-Mar. 10
CENTRAL FLYWAY	
Kansas	
Ducks, mergansers, and coots:	
Low Plains:	
Early Zone	Feb. 17-Mar. 3
Late Zone	Feb. 17-Mar. 3
Montana (2)	
Ducks, mergansers, and coots:	
Zone 1	Sept. 19-Sept. 28
Zone 2	Sept. 19-Sept. 28
* * * * *	
Oklahoma	
Ducks, mergansers, and coots:	
Low Plains:	
Zone 1	Dec. 3-Dec. 7 & Jan. 14-Jan. 23
Zone 2	Dec. 3-Dec. 7 & Jan. 21-Jan. 30

	Extended Falconry Dates
South Dakota	
Ducks, mergansers, and coots:	
Low Plains:	
North Zone	Sept. 4-Sept. 21 & Sept. 24-Sept.28 & Dec. 12-Dec. 19
Middle Zone	Sept. 4-Sept. 21 & Sept. 24-Sept. 28 & Dec. 12-Dec. 19
South Zone	Sept. 11-Sept. 21 & Sept. 24-Oct. 12 & Dec. 26 only
High Plains	Sept. 4-Sept. 11
Texas	
* * * * *	
Ducks, mergansers, and coots:	
Low Plains	Jan. 21-Feb. 4
* * * * *	
PACIFIC FLYWAY	
Arizona	
* * * * *	
Ducks and mergansers:	
North Zone	Oct. 7-Oct. 11
South Zone	Jan. 22-Jan. 26
California	
Ducks, mergansers, and coots:	
Northeastern Zone	Jan. 14-Jan. 18
Colorado River Zone	Jan. 21-Jan. 25
Southern Zone	Jan. 21-Jan. 27
Balance-of-State Zone	Jan. 21-Jan. 27
Southern San Joaquin Zone	Jan. 21-Jan. 27
Canada Geese:	
Northeastern Zone	Jan. 14-Jan. 18
Southern Zone	Oct. 13-Oct. 19 & Jan. 21-Jan. 27
Balance-of-State Zone (5)	Oct. 13-Nov. 2 & Jan 21-Jan. 27
Southern San Joaquin Zone	Oct. 13-Nov. 2 & Jan. 21-Jan. 27

	Extended Falconry Dates
California (cont.)	
White-fronted Geese:	
Northeastern Zone	Nov. 19-Jan. 18
Southern Zone	Oct. 13-Oct. 19 & Jan. 21-Jan. 27
Balance-of-State Zone	Oct. 13-Nov. 2 & Jan. 21-Jan. 27
Southern San Joaquin Zone	Oct. 13-Nov. 2 & Jan. 21-Jan. 27
Brant	
Northeastern Zone	Oct. 6-Nov. 9 & Dec. 10-Jan 18
Southern Zone	Oct. 13-Nov. 9 & Dec. 10-Jan. 27
Balance-of-State Zone	Oct. 13-Nov. 9 & Dec. 10-Jan. 27
Southern San Joaquin Zone	Oct. 13-Nov. 9 & Dec. 10-Jan. 27
Light Geese:	
Northeastern Zone	Jan. 14-Jan. 18
Southern Zone	Oct. 13-Oct. 19 & Jan. 21-Jan. 27
Balance-of-State Zone	Oct 13-Nov. 2 & Jan. 21-Jan. 27
* * * * *	
New Mexico	
* * * * *	
Rails	Dec. 15-Jan. 20
Dark Geese:	
North Zone	Nov. 5-Nov. 11
South Zone	Oct. 6-Oct. 12
Light Geese:	
North Zone	Nov. 5-Nov. 11
South Zone	Oct. 6-Oct. 12
* * * * *	

	Extended Falconry Dates
Utah	
* * * * *	
Light Geese	Jan. 14-Jan. 19
Dark Geese:	
Washington County	Oct. 7-Oct. 12
Rest of State	Jan. 14-Jan. 19
* * * * *	

(2) In Montana, the bag limit is 2 and the possession limit is 6.

* * * * *

(4) In Maine, the daily bag and possession limits for black ducks are 1 and 2, respectively.
(5) In California, the falconry season for Canada geese is closed in the Del Norte and Humbolt Area, the Sacramento Valley Area, and in the San Joaquin Valley Area.
(6) In Florida, light geese may only be taken north and west of the Suwannee River.

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Federal Register

Friday,
September 28, 2001

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2001–02 Late Season; Final rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AH79

Migratory Bird Hunting; Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2001–02 Late Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special late season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This responds to tribal requests for U.S. Fish and Wildlife Service (hereinafter Service or we) recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

DATES: This rule takes effect on September 29, 2001.

ADDRESSES: You may inspect comments on the special hunting regulations and tribal proposals during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358–1714).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In a proposed rule published in the August 14, 2001, **Federal Register** (66 FR 42712), we proposed special migratory bird hunting regulations for the 2001–02 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by non-tribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In a proposed rule published in the April 30, 2001, **Federal Register** (66 FR 21298), we requested that tribes desiring special hunting regulations in the 2001–02 hunting season submit a proposal including details on:

(a) Harvest anticipated under the requested regulations;

(b) Methods that would be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.);

(c) Steps that would be taken to limit the level of harvest, where it could be shown that failure to limit the harvest would adversely impact the migratory bird resource; and

(d) Tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. We have successfully used the guidelines since the 1985–86 hunting season. We finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

Although the August 14, 2001 proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the late-season proposals. Early-season proposals were addressed in a final rule published in the August 31 **Federal Register** (66 FR 46200). As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged dove. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

Status of Populations

In a proposed rule published in the July 24, 2001 **Federal Register**, we reviewed the status for various populations for which seasons were proposed. This information included brief summaries of the May Breeding Waterfowl and Habitat Survey and population status reports for blue-wing teal, Canada goose populations hunted in September seasons, sea ducks, sandhill cranes, woodcock, mourning doves, white-winged doves, white-tipped doves, and band-tailed pigeons. As a result of these status reports, we have responded by proposing for the 2001–02 waterfowl hunting season Flyway frameworks that are essentially the same as those of last season (August 22, 2000, **Federal Register**, 65 FR 51174). The tribal seasons established below are commensurate with the population status.

Comments and Issues Concerning Tribal Proposals

For the 2001–02 migratory bird hunting season, we proposed regulations for 29 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes had both early- and late-season elements. However, as noted earlier, only those with late-season proposals are included in this final rulemaking; 20 tribes have proposals with late seasons. Comments and proposals are addressed in the following section. The comment period for the proposed rule, published on August 14, 2001, closed on August 24, 2001.

We received one comment regarding the notice of intent published on April 30, 2001, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members. We responded to this comment in the August 31 final rule.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the ''Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)'' was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement, the ''Final

Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88–14)'' was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). Copies of these documents are available from us at the address indicated under the caption **ADDRESSES.** In addition, an August 1985 Environmental Assessment titled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the same address.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *'' Consequently, we conducted consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. Our biological opinions resulting from this Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBM, at the address indicated under the caption **ADDRESSES.**

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns from which it was estimated that migratory bird hunters would spend between $429 million and $1.084 billion at small businesses in 1998. Copies of the Analysis are available upon request.

Executive Order (E.O.) 12866

Collectively, the rules covering the overall frameworks for migratory bird hunting are economically significant and have been reviewed by the Office of Management and Budget (OMB) under E.O. 12866. This rule is a small portion of the overall migratory bird hunting frameworks and was not individually submitted and reviewed by OMB under E.O. 12866.

Energy Effects—E.O. 13211

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Small Business Regulatory Enforcement Fairness Act

The annual migratory bird hunting regulations constitute a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, these series of rules has an annual effect on the economy of $100 million or more. However, because these rules establish hunting seasons, we do not plan to defer the effective date of this rule under the exemption contained in 5 U.S.C. 808 (1) and this rule will be effective immediately.

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations.

OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned clearance number 1018–0023 (expires 7/31/2003). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that it will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, the annual migratory bird hunting rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian

reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E. O. 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals received in response to the April 30, 2001, request for proposals and the August 14, 2001, proposed rule, we have consulted with all the tribes affected by this rule.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the tribes would have insufficient time to communicate these seasons to their member and non-tribal hunters and to establish and publicize the necessary regulations and procedures to implement their decisions.

We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

Therefore, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), we prescribe final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, part 20, subchapter B, chapter I of Title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

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

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j, Pub. Law 106–108.

Note: The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.110 is amended by revising paragraphs (a), (b), (f), (h), (k), (l), (p), (q), (r), and (t), and by adding paragraphs (u) through (cc) to read as set forth below. (Current § 20.110 was published at 66 FR 46200, August 31, 2001.)

§ 20.110 Seasons, limits and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Non-tribal Hunters)

Doves

Season Dates: Open September 1, close September 15, 2001; then open November 16, 2001, close January 13, 2002.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or 10 white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits.

Ducks (including mergansers)

Canvasbacks: Open October 6, close November 12, 2001.

Other ducks: Open October 6, 2001, close January 6, 2002.

Daily Bag and Possession Limits: Seven ducks, including no more than one pintail, two redheads, two hen mallards, four scaup, two goldeneyes, two cinnamon teal, and one canvasback (when open). The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and common moorhens, singly or in the aggregate.

Geese

Season Dates: Open November 17, 2001, close January 13, 2002.

Daily Bag and Possession Limits: Four geese, including no more than two dark (Canada) geese and three white (snow, blue, Ross's) geese. The possession limit is eight, but could include no more than six white geese or four dark geese.

General Conditions: A valid Colorado River Indian Reservation hunting permit is required for all persons 14 years and older and must be in possession before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

(b) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Non-tribal Hunters)

Sandhill Cranes

Season Dates: Open September 15, close October 21, 2001.

Daily Bag Limit: Three sandhill cranes.

Permits: Each person participating in the sandhill crane season must have a valid Federal sandhill crane hunting permit in their possession while hunting.

Ducks

Canvasbacks (Applies to Non-tribal Hunters Only): Open October 6, close October 30, 2001.

Other ducks: Open October 6, close December 18, 2001.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (including no more than two female mallards), two redheads, one canvasback (when open), one pintail, three scaup, and two wood ducks. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Five mergansers, including no more than one hooded merganser. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 20, 2001, close January 22, 2002.

Daily Bag and Possession Limits: Three and six, respectively.

White-fronted Geese

Season Dates: Open September 29, close December 23, 2001.

Daily Bag and Possession Limits: Two and four, respectively.

Light Geese

Season Dates: Open September 29, 2001, close January 3, 2002.

Daily Bag and Possession Limits: 20 geese daily, no possession limit.

General Conditions: The waterfowl hunting regulations established by this final rule apply only to tribal and trust lands within the external boundaries of the reservation. Tribal and non-tribal hunters must comply with basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Crow Creek Sioux Tribe also apply on the reservation.

* * * * *

(f) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Non-Tribal Hunters)

Tribal Hunters Within Kalispel Ceded Lands

Ducks

Season Dates: Open September 15, 2001, close January 31, 2002.

Daily Bag Limit: 7 ducks, including no more than 2 female mallards, 1 pintail, 4 scaup, 2 redheads. The season on canvasbacks is closed.

Geese

Season Dates: Open September 1, close January 31, 2002.

Daily Bag Limit: 3 light geese and 4 dark geese. The daily bag limit is 2 brant and is in addition to dark goose limits.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

Non-tribal Hunters

Ducks

Season Dates: Open September 29, 2001, close January 19, 2002. During this period, days to be hunted are specified by the Kalispel Tribe as weekends, holidays and for a continuous period in the months of December and January. Non-tribal hunters should contact the tribe for more detail on hunting days.

Daily Bag and Possession Limits: Seven ducks, including no more than one pintail, two hen mallards, two redheads, and four scaup. The season on canvasbacks is closed.

Geese

Season Dates: Open September 1, 2001, close September 15, and begin September 29, close January 19, 2002. During this period, days to be hunted are specified by the Kalispel Tribe as weekends, holidays and for a continuous period in the months of December and January. Non-tribal hunters should contact the tribe for more detail on hunting days. .

Daily Bag and Possession Limits: 5 and 10, respectively during the early period and four geese, including four dark geese but not more than three light geese during the late period. The possession limit is twice the daily bag limit.

General: Hunters must observe all State and Federal regulations, such as those contained in 50 CFR part 20 and including the possession of a validated Migratory Bird Hunting and Conservation Stamp.

* * * * *

(h) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)

Ducks

Season Dates: Open September 29, close December 5, 2001.

Daily Bag Limits: Six ducks, including no more than four mallards (only one of which may be a hen), three scaup, one black duck, two redheads, two wood ducks, one pintail, and one canvasback.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Five mergansers, including no more than one hooded merganser. The possession limit is twice the daily bag limit.

Coots and Common Moorhens (Common Gallinules)

Season Dates: Open September 29, close December 5, 2001.

Daily Bag Limit: 15 coots and common moorhens (common gallinules), singly or in the aggregate.

Canada Geese

Season Dates: Open September 1, close September 15, 2001, early season, then open September 16, close December 2, 2001, regular season, and open February 2, close February 17, 2002, late season.

Daily Bag Limits: Five geese in the early and late seasons and two geese during the regular season.

Other Geese

Season Dates: Open September 16, close December 2, 2001.

Daily Bag Limits: Ten geese, including no more than two white-fronted geese or two brant.

Rails, Snipe, and Woodcock

Season Dates: Open September 15, close November 14, 2001.

Daily Bag Limit: 25 rails, 8 snipe, and 3 woodcock.

General Conditions are as follows:

A. All tribal members will be required to obtain a valid tribal resource card and 2001–02 hunting license.

B. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel all Federal regulations contained in 50 CFR part 20.

C. Particular regulations of note include:

(1) Nontoxic shot will be required for all waterfowl hunting by tribal members.

(2) Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

(3) Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above.

D. Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

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(k) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nonmembers)

Band-tailed Pigeons

Season Dates: Open September 1, close September 30, 2001.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, close September 30, 2001.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks (including mergansers)

Canvasbacks: Open September 29, close November 5, 2001.

Other ducks: Open September 29, 2001, close January 13, 2002.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, four scaup, two redheads, and one canvasback (when open). The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and moorhens, singly or in the aggregate.

Dark Geese

Season Dates: Open September 30, 2001, close January 7, 2002.

Daily Bag and Possession Limits: Three and six geese, respectively.

General Conditions: Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Navajo Nation also apply on the reservation.

(l) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only)

Ducks (including mergansers)

Season Dates: Open September 29, close November 30, 2001.

Daily Bag and Possession Limits: Six, including no more than six mallards (three hen mallards), five wood ducks, one canvasback, one redhead, two pintails, and one hooded merganser.

Geese

Season Dates: Open September 1, close November 16, 2001, and open November 26, close December 31, 2001.

Daily Bag and Possession Limits: Three Canada geese. Hunters will be issued three tribal tags for geese in order to monitor goose harvest. An additional three tags will be issued each time birds are registered. A season quota of 150 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

Woodcock

Season Dates: Open September 1, close November 12, 2001.

Daily Bag and Possession Limits: 5 and 10 woodcock, respectively.

General Conditions: The tribe proposes shooting hours be one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the tribe must comply with all State of Wisconsin regulations. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: Indian hunters would be exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells.

* * * * *

(p) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Non-Tribal Hunters)

Tribal Members

Ducks (Including Coots and Mergansers, excluding canvasback)

Season Dates: Open September 15, 2001, and close February 28, 2002.

Daily Bag and Possession Limits: 7 and 14 ducks, respectively, per species for all species except that bag and possession limits may include no more than 2 female mallards, 1 pintail, 4 scaup, 2 redheads, and one canvasback.

Geese

Season Dates: Open September 15, 2001, and close February 1, 2002.

Daily Bag and Possession Limits: 6 and 12 geese, respectively; except that the bag limits may not include more than 2 brant and 1 cackling Canada goose. The tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting of 365 ducks and 365 geese.

Snipe

Season Dates: Open September 15, 2001, close February 1, 2002.

Daily Bag and Possession Limits: 8 and 16, respectively.

Non-tribal Hunters

Ducks

Canvasbacks: The season on canvasback is the same as those established by the State of Washington, under final Federal frameworks, to be announced.

Other ducks: Open October 6, 2001, close January 20, 2002.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, four scaup, two redheads, and one canvasback (when open). The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Open October 13, 2001, close January 20, 2002.

Daily Bag and Possession Limits: Four geese, including four dark geese but no more than three light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Open January 5, close January 20, 2002.

Daily Bag and Possession Limits: Two and four brant, respectively.

Snipe

Season Dates: Open September 15, 2001, close February 1, 2002.

Daily Bag and Possession Limits: 8 and 16, respectively.

General Conditions: All hunters on Tulalip Tribal lands are required to adhere to shooting hour regulations set at one-half hour before sunrise to sunset, special tribal permit requirements, and a number of other tribal regulations enforced by the tribe. Nontribal hunters 16 years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a valid Federal Migratory Bird Hunting and Conservation Stamp and a valid State of Washington Migratory Waterfowl Stamp. Both stamps must be validated by signing across the face of the stamp. Other tribal regulations apply, and may be obtained at the tribal office in Marysville, Washington.

(q) Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only)

Ducks

Season Dates: Open November 1, 2001, close February 8, 2002.

Daily Bag and Possession Limits: 15 and 20, respectively.

Coots

Season Dates: Open November 1, 2001, close February 8, 2002.

Daily Bag and Possession Limits: 20 and 30, respectively.

Geese

Season Dates: Open November 1, 2001, close February 8, 2002.

Daily Bag and Possession Limits: Seven geese and five brant. The possession limit for geese and brant are 10 and 7, respectively.

Mourning Dove

Season Dates: Open September 1, close December 31, 2001.

Daily Bag Limit: 12 mourning dove.

Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR.

(r) Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only)

Ducks

Season Dates: Open October 27, 2001, and close February 23, 2002.

Daily Bag and Possession Limits: Six ducks, including no more than two hen mallards, two black ducks (one black duck from December 2 to December 9, 2001), two mottled ducks, one fulvous whistling duck, four mergansers, three scaup, one hooded merganser, two wood ducks, one canvasback, two redheads, one pintail, and one hen eider. The season is closed for harlequin ducks. In addition to the daily duck bag limit, a daily bag limit of six teal is allowed.

Sea Ducks

Season Dates: Open October 27, 2001, and close February 23, 2002.

Daily Bag Limit: Seven ducks including no more than four of any one species.

Geese

Season Dates: Open September 15, close September 22, 2001, and open November 3, 2001, close February 23, 2002.

Daily Bag Limit: 5 Canada geese during the first period, 3 Canada geese during the second period, and 15 snow geese.

Woodcock

Season Dates: Open October 13, and close November 17, 2001.

Daily Bag and Possession Limits: Three woodcock.

General Conditions: Shooting hours are one-half hour before sunrise to sunset. Non-toxic shot is required. Tribal members will observe all basic Federal migratory bird hunting regulations contained in 50 CFR part 20.

* * * * *

(t) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Non-tribal Hunters)

Band-tailed Pigeons

Season Dates: Open September 5, close September 19, 2001.

Daily Bag and Possession Limits: Three and six pigeons, respectively.

Mourning Doves

Season Dates: Open September 5, close September 19, 2001.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks (Including Mergansers)

Canvasback: Open October 20, close November 25, 2001.

Other ducks: Open October 20, 2001, close January 20, 2002.

Daily Bag and Possession Limits: Four ducks, including no more than three mallards (including no more than one hen mallard), two redheads, one pintail, and one canvasback (when open). The possession limit is twice the daily bag limit.

Coots, Moorhens and Gallinules

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots, moorhens, and gallinules, singly or in the aggregate. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 20, 2001, close January 20, 2002.

Bag and Possession Limits: Three and six, respectively.

General Conditions: All non-tribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all non-tribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, the area open to waterfowl hunting in the above seasons consists of: the entire length of the Black River west of the Bonito Creek and Black River confluence and the entire length of the Salt River forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 5, 6, and 7. Tanks located below the Mogollon Rim, within Wildlife Management Units 2 and 3, will be open to waterfowl hunting during the 2001–02 season. The length of the Black River east of the Black River/Bonito Creek confluence is closed to waterfowl hunting. All other waters of the reservation would be closed to waterfowl hunting for the 2001–02 season.

(u) Bois Forte Band of Chippewa, Nett Lake, Minnesota (Tribal Members and Non-tribal Hunters)

Ducks

Canvasbacks (For non-tribal hunters only): Open October 13, close November 1, 2001.

Other ducks: Open September 29, close November 28, 2001, except shooting hours on opening day and for every hunting day for the remainder of the season would be one-half hour before sunrise and continue to one-half hour after sunset for tribal members. Non-tribal shooting hours will go from one-half hour before sunrise to sunset on reservation.

Daily Bag Limits and Possession Limits: Six ducks, including no more than one canvasback (nontribal hunters only when the season is open). The possession limit is twice the daily bag limit.

The Band's Conservation Department regulates non-tribal harvest limits under the following regulations: (1) Non-tribal hunters must be accompanied at all times by a Band Member guide; (2) Non-tribal hunters must have in their possession a valid small game hunting license, a Federal migratory waterfowl stamp, and a Minnesota State waterfowl stamp; (3) Non-tribal hunters and Band Members must have only Service-approved non-toxic shot in possession at all times; (4) Non-tribal hunters must conform to possession limits established and regulated by the State on Minnesota and the Bois Forte Band.

(v) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Non-tribal Hunters)

Ducks (including mergansers)

Canvasbacks: Open September 22–23, 2001, for Youth Waterfowl Season only, and open September 29, close November 5, 2001.

Other ducks: Open September 29, 2001, close January 13, 2002.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, four scaup, two redheads, and one canvasback (when open). The

possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: The daily bag and possession limit is 25.

Geese; Dark Geese

Season Dates: Open September 29, 2001, close January 6, 2002.

Daily Bag and Possession Limits: Four and eight geese, respectively.

Light Geese

Season Dates: Open September 29, 2001, close January 6, 2002.

Daily Bag and Possession Limits: Three and six geese, respectively.

Youth Waterfowl Hunt

Season Dates: September 22–23, 2001.

Daily Bag and Possession Limits: Same as ducks but includes one canvasback.

General Conditions: Non-tribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset, and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(w) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Non-tribal Hunters)

Ducks (except canvasbacks but including mergansers)

Canvasbacks (Applies to Non-tribal hunters only): Open October 6, close November 12, 2001.

Other ducks: Open October 6, close November 30, 2001.

Daily Bag and Possession Limits: The daily bag limit is seven, including no more than two hen mallards, one pintail, two redheads, four scaup, and one canvasback (when open). The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 6, close November 30, 2001.

Daily Bag and Possession Limits: Two and four, respectively.

General Conditions: Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Jicarilla Tribe also apply on the reservation.

(x) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

Ducks

Season Dates: Open October 1, 2001, close January 28, 2002.

Daily Bag and Possession Limits: 9 and 18 ducks, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 6 and 12 geese, respectively.

General: The Klamath Tribe provides its game management officers, biologists, and wildlife technicians with regulatory enforcement authority, and has a court system with judges that hear cases and set fines.

(y) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Non-tribal Hunters)

Ducks

Season Dates: Open October 6, 2001, close January 10, 2002.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (only one of which may be a hen), one pintail, three scaup, one mottled duck, two redheads, and two wood ducks. The season on canvasbacks is closed. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily bag Limits: Five, including no more than one hooded merganser.

Canada Geese

Season Dates: Open October 20, 2001, close January 22, 2002.

Daily Bag and Possession Limits: Three and six, respectively.

White-fronted Geese

Season Dates: Open October 20, 2001, close January 13, 2002.

Daily Bag and Possession Limits: Two geese. The possession limit is twice the daily bag limit.

Light Geese

Season Dates: Open October 20, 2001, close January 19, 2002, then Open February 24, close March 10, 2002.

Daily Bag Limit: 20 geese.

Youth Waterfowl Hunt

Season Dates: Open September 29, close September 30, 2001.

Daily Bag Limit: Same as above.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot. Non-tribal hunters must possess a validated Migratory Bird Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the tribe.

(z) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Non-tribal Hunters)

Ducks (including Mergansers)

Season Dates: Open October 6, 2001, close January 18, 2002.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one scaup, and two redheads. The season on canvasbacks is closed. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 5 and 10 mergansers, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 10 and 20 coots, respectively.

Geese

Season Dates: Open October 6, 2001, close January 11, 2002.

Daily Bag and Possession Limits: Four geese, including not more than three light geese or two white-fronted geese. The possession limit is twice the daily bag limit.

Common Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: Non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must possess a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face.

Other regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(aa) Stillaguamish Tribe of Indians, Arlington, Washington (Tribal Members Only)

Ducks (including mergansers)

Season Dates: Open October 1, 2001, close January 31, 2002.

Daily Bag and Possession Limits: 10 including no more than five hen mallards, four pintail, four canvasback, seven scaup, and five redheads. The possession limit is twice the daily bag limit.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Six and twelve, respectively. The season on brant is closed for conservation measures.

Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 10 and 20, respectively.

Tribal members hunting on lands under this proposal will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Stillaguamish Tribal Law Enforcement. Tribal members are required to use steel shot or a non-toxic shot as required by Federal regulations.

(bb) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)

Off Reservation

Ducks (including mergansers)

Season Dates: Open September 29, 2001, close February 19, 2002.

Daily Bag and Possession Limits: 10 ducks, including no more than 5 hen mallards, 4 pintail, 4 canvasback, 7 scaup, and 5 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Seven geese, including seven dark geese but no more than six light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 5 and 10 brant, respectively.

On Reservation

Ducks (including mergansers)

Season Dates: Open September 15, 2001, close March 9, 2002.

Daily Bag and Possession Limits: 10 ducks, including no more than 5 hen mallards, 4 pintail, 4 canvasback, 7 scaup, and 5 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Seven geese, including seven dark geese but no more than six light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 5 and 10 brant, respectively.

General Conditions: Steps will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would seriously impact the migratory bird resource. Tribal members hunting on lands under this proposal will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Swinomish Tribal Fish and Game.

(cc) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Non-tribal Hunters)

Ducks (including Mergansers)

Canvasbacks: Open October 13, close November 6, 2001.

Other ducks: Open October 13, close December 25, 2001.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (no more than two hen mallards), two redheads, one pintail, three scaup, two wood ducks, and one canvasback (when open). The daily bag limit for mergansers is five, of which no more than one can be a hooded merganser. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 15 and 30 coots, respectively.

Dark Geese

Season Dates: Open October 27, 2001, close January 31, 2002.

Daily Bag and Possession Limits: Three geese, including no more than one white-fronted goose or brant. The possession limits is twice the daily bag limit.

Light Geese

Season Dates: Open October 27, 2001, close January 20, 2002.

Daily Bag and Possession Limits: 20 geese, no possession limit.

General Conditions:

(1) The waterfowl hunting regulations established by this final rule apply to tribal and trust lands within the external boundaries of the reservation.

(2) Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

Dated: September 19, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–24291 Filed 9–27–01; 8:45 am]

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Federal Register

Friday,
September 28, 2001

Part IV

Department of Housing and Urban Development

Tribal Government-to-Government Consultation Policy; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4580–N–01]

Tribal Government-to-Government Consultation Policy

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: Through this notice HUD advises the public of its tribal government-to-government consultation policy. The purpose of the consultation policy is to enhance communication and coordination between HUD and federally recognized Indian tribes, and to outline guiding principles and procedures under which all HUD employees are to operate with regard to federally recognized Indian or Alaska Native tribes.

DATES: *Effective Date:* June 28, 2001.

FOR FURTHER INFORMATION CONTACT: Ted L. Key, Acting Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4128, Washington, DC 20410; telephone (202) 401–7914 (this is not a toll-free telephone number). Persons with hearing or speech disabilities may access this number via TTY by calling the toll free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This notice sets forth HUD's tribal government-to-government consultation policy. The purpose of the consultation policy is to enhance communication and coordination between HUD and federally recognized Indian tribes, and to outline guiding principles and procedures under which all HUD employees are to operate with regard to federally recognized Indian or Alaska Native tribes. The policy is as follows:

Department of Housing and Urban Development

Tribal Government-to-Government Consultation Policy

I. Introduction

A. The United States Government has a unique relationship with American Indian governments as set forth in the Constitution of the United States, treaties, statutes, court decisions, and executive orders and memoranda.

B. On April 29, 1994, a Presidential Memorandum was issued reaffirming the federal government's commitment to operate within a government-to-government relationship with federally recognized American Indian and Alaska Native tribes, and to advance self-governance for such tribes. The Presidential Memorandum directs each executive department and agency, to the greatest extent practicable and to the extent permitted by law, to consult with tribal governments prior to taking actions that have substantial direct effects on federally recognized tribal governments. In order to ensure that the rights of sovereign tribal governments are fully respected, all such consultations are to be open and candid so that tribal governments may evaluate for themselves the potential impact of relevant proposals. On May 14, 1998, the President issued Executive Order 13084, ''*Consultation and Coordination with Indian Tribal Governments*,'' which was revoked and superseded on November 6, 2000, by the identically titled Executive Order 13175, which sets forth guidelines for all federal agencies to (1) establish regular and meaningful consultation and collaboration with Indian tribal officials in the development of federal policies that have tribal implications; (2) strengthen the United States government-to-government relationships with Indian tribes; and (3) reduce the imposition of unfunded mandates upon Indian tribes.

C. This consultation policy applies to all HUD programs that have substantial direct effects on federally recognized Indian tribal governments. In formulating or implementing such policies, HUD will be guided by the fundamental principles set forth in section 2 of Executive Order 13175, to the extent applicable to HUD programs. Section 2 of the Executive Order provides as follows:

Sec. 2. *Fundamental Principles.* In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

II. Definitions

A. ''*Consultation*'' means the *direct* and *inter-active* (i.e., collaborative) involvement of tribes in the development of regulatory policies on matters that have tribal implications.

Consultation is the active, affirmative process of (1) identifying and seeking input from appropriate Native American governing bodies, community groups and individuals; and (2) considering their interest as a necessary and integral part of HUD's decision-making process.

This definition adds to any statutorily mandated notification procedures. The goal of notification is to provide an *opportunity for comment*; however, with consultation procedures, the burden is on the federal agency to show that it has made a good faith effort to *elicit feedback.*

B. ''*Exigent situation*'' means an unforeseen combination of circumstances or the resulting state that calls for immediate action in order to preserve tribal resources, rights, interests, or federal funding.

C. ''*Indian tribe*'' means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

III. Principles

A. HUD acknowledges the unique relationship between the federal government and Indian tribes.

B. HUD recognizes and commits to a government-to-government relationship with Federally-recognized tribes.

C. HUD recognizes tribes as the appropriate non-federal parties for making their policy decisions and managing programs at the local level for their constituents.

D. HUD shall take appropriate steps to remove existing legal and programmatic impediments to working directly and effectively with tribes on housing and community development programs administered by HUD.

E. HUD shall encourage states and local governments to work with and cooperate with tribes to resolve problems of mutual concern.

F. HUD shall work with other federal departments and agencies to enlist their interest and support in cooperative efforts to assist tribes to accomplish their goals within the context of all HUD programs.

G. HUD shall be guided by these policy principles in its planning and management activities, including its budget, operating guidance, legislative initiatives, management accountability system and ongoing policy and regulation development processes for all programs affecting tribes.

IV. Tribal Coordination, Collaboration and Consultation

A. Tribal Coordination, Collaboration and Consultation applies when any proposed policies, programs or actions are identified by HUD as having a substantial direct effect on an Indian tribe. The Office of Native American Programs (ONAP), within the Office of Public and Indian Housing, may serve as the lead Departmental office for the implementation of this policy, and is the principal point of contact for consultation with tribes on all HUD programs.

B. *Procedures and Methods for Implementation—Tribal, Regional and National Forums.*

1. Based on a government-to-government relationship and in recognition of the uniqueness of each tribe, a primary focus for consultation activities is with individual tribal governments. The use of tribal organizations/committees will be in coordination with, and not to the exclusion of, consultation with individual tribal governments. When proposed federal government policies, programs or actions are determined by HUD as having tribal implications, HUD will notify the affected tribe(s) and take affirmative steps to consult and collaborate directly with the tribe(s) or its (their) designee. Tribes at any time may exercise their right to request consultation with HUD.

2. Tribes are encouraged to exercise their option to convene regional tribal meetings to identify and address issues. Tribes may schedule quarterly regional meetings with HUD representatives to address issues relevant to HUD policies, regulations, and statutes.

3. At least one national tribal consultation and coordination meeting will be held by HUD each year. To reduce costs and conserve resources, to the extent feasible, tribes and HUD will coordinate consultation meetings to be held before or after other regularly scheduled meetings such as multi-agency and association meetings.

C. *Tribal Advisory Organizations/Committees.* The principal focus for consultation activities of HUD is with individual tribal governments. However, it is frequently necessary that HUD have organizations/committees in place from which to solicit tribal advice and recommendations, and to involve tribes in decision-making and policy development. In consultation with elected tribal governments, HUD recognizes tribal advisory organizations/committees. Consultation shall be conducted as follows:

1. *Headquarters.* HUD will consult with existing national organizations.

2. *Area Offices.* Each Area ONAP Administrator, in consultation with tribal governments, will consult with organizations/committees and/or representatives of tribal governments served by the Area ONAP. The tribal organizations/committees and/or representatives will provide advice and consultation to the Area ONAP Administrator and staff. Meetings with the Area ONAP shall occur at least annually, or more frequently when there is a need.

3. *National/Area Coordination.* To promote coordination in addressing issues arising from tribal consultation events at both the national and local level, a summary record of the comments made during national and area consultations will be made available to tribes.

D. *Joint Federal/Tribal Work Groups or Task Forces.* It may become necessary for HUD, to establish or select a work group or task force to develop recommendations on certain issues. The work group or task force may conduct its activities through conventional (e.g., telephone and mail), as well as innovative (e.g., e-mail and video conferences) means of communication.

1. *Membership and Meeting Notices.*

a. Tribal representation should be consistent with the established standard of geographically diverse small, medium and large tribes, whenever possible.

b. Meetings will be posted on the Internet and will be open to the public. In addition to internet posting, HUD may also announce meetings through FAX, letter, e-mail, publication in the **Federal Register**, or other appropriate means.

2. *Participation.*

a. *Attendance:* Work group members shall make good-faith attempts to attend all meetings. They may be accompanied by other individuals to advise them as they deem necessary.

b. *Appointment of Alternates:* Alternate work group members may be appointed by written notification signed by the member. Such alternates shall possess the authority of the work group member to make decisions on their behalf if such authority is so delegated to them in writing.

3. *Work Group Protocols that may be established.*

a. Roles of the work group members.

b. Process for decision-making.

c. Process for creating written products and other decisional documents.

d. Other items as deemed necessary by the work group.

4. *Work Group Final Products and Recommendations.* All final recommendations will be given serious consideration by HUD. Whenever possible, all work group products should be circulated to tribal leaders for review and comment.

V. Rulemaking

On issues relating to tribal self-government, tribal trust resources, or treaty and other rights, HUD will explore, and where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking. HUD may establish a standing committee, consisting of representatives of tribal governments, to consult on the appropriateness of using negotiated rulemaking procedures on particular matters. The procedures governing such a standing committee would be established through the mutual agreement of HUD and tribal governments.

VI. Unfunded Mandates

To the extent practicable and permitted by law, HUD shall not promulgate any regulation that is not required by statute, that has tribal implications, and that imposes substantial direct compliance costs on such communities, unless:

1. Funds necessary to pay the direct costs incurred by the Indian tribal government in complying with the regulation are provided by the federal government; or

2. HUD, prior to the formal promulgation of the regulation:

a. Consulted with tribal officials early in the process of developing the proposed regulation;

b. In a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register,** provides to the Director of the Office of Management and Budget a description of the extent of HUD's prior consultation with representatives of affected Indian tribal governments, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation; and

c. Makes available to the Director of the Office of Management and Budget any written communications submitted to HUD by such Indian tribal governments.

VII. Increasing Flexibility for Indian Tribal Waivers

HUD shall review the processes under which Indian tribal governments apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

1. HUD shall, to the extent practicable and permitted by law, consider any application by an Indian tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by HUD with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable federal policy objectives and is otherwise appropriate.

2. HUD shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by HUD. HUD shall provide the applicant with timely written notice of the decision and, if the application for a waiver is not granted, the reasons for such denial.

3. This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by HUD. Applicable civil rights statutes and regulations are not subject to waiver.

VIII. Implementation

1. All committees shall be chaired by at least one tribal and one HUD representative.

2. *Time Frames.* Time frames for consultation outreach will depend on the need to act quickly. Suggested guidelines are not less than 60 days for significant new matters of national scale, 30 days for routine proposed actions, and 2–3 weeks with expanded tribal outreach efforts for proposed actions which must be ''fast tracked'' to respond to critical deadlines. These time frames may be compressed in exigent situations.

3. *Methods of Communication.* The following are examples of communication means by which consultation can be accomplished. The method(s) of communication used will be determined by the significance of the consultation matter, the need to act quickly, and other relevant factors: Internet; broadcast fax; U.S. Postal Service; telephone-conference calls; multimedia; direct contact; and formal meetings.

4. *Reporting Mechanisms.* In all cases where a tribe or tribes have been involved in the consultation process, the tribe(s) shall be notified of the HUD decision by one or more of the communication method(s) identified above. This notification shall specifically include a discussion of the basis for the HUD decision, including public comments received, relationship to the concerns raised in consultation, and any avenues available for further discussion, protest or appeal of the decisions.

5. Internal HUD policies and procedures are excluded from this policy.

IX. Applicability of the Federal Advisory Committee Act

The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) (FACA) do not apply to consultations undertaken pursuant to this policy. In accordance with section 204(b) of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, approved March 22, 1995), FACA is not applicable to consultations between the Federal government and elected officers of Indian tribal governments (or their designated employees with authority to act on their behalf). As the Office of Management and Budget stated in its guidelines implementing section 204(b):

> This exemption applies to meetings between Federal officials and employees and * * * tribal governments acting through their elected officers, officials, employees, and Washington representatives, at which 'views, information, or advice' are exchanged concerning the implementation of intergovernmental responsibilities or administration, including those that arise explicitly or implicitly under statute, regulation, or Executive Order. The scope of meetings covered by this exemption should be construed broadly to include meetings called for any purpose relating to intergovernmental responsibilities or administration. Such meetings include, but are not limited to, meetings called for the purpose of seeking consensus, exchanging views, information, advice, and/or recommendations; or facilitating any other interaction relating to intergovernmental responsibilities or administration. (OMB Memorandum 95–20 (September 21, 1995), pp. 6–7, published at 60 FR 50651, 50653 (September 29, 1995)).

X. General Provisions

This document has been adopted for the purpose of enhancing government-to-government relationships, communications, and mutual cooperation between the U.S. Department of Housing and Urban Development and tribes and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other persons. This document is effective on the date it is signed.

Dated: June 28, 2001.

Mel Martinez,

Secretary.

[FR Doc. 01–24268 Filed 9–27–01; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Friday,
September 28, 2001

Part V

Department of Housing and Urban Development

24 CFR Part 1000

Revision to Cost Limits for Native American Housing; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1000

[Docket No. FR–4517–F–02]

RIN 2577–AC14

Revision to Cost Limits for Native American Housing

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This rule revises HUD's regulations regarding the way construction costs are controlled in the Indian Housing Block Grant (IHBG) program administered by IHBG grantees, who are Indian tribes or their tribally designated housing entities (TDHEs). This rule replaces the system of HUD-established Dwelling Construction and Equipment costs (DC&Es) with a choice between HUD-established Total Development Costs (TDCs) or standards established by the tribe/TDHE based on standards in its geographic area. This rule also provides that the construction, acquisition, or assistance of non-dwelling structures is either subject to tribally developed standards or to documentation of comparability to the size, design and amenities of similar buildings constructed in the geographic area. This rule follows an April 20, 2000 proposed rule and takes into consideration the public comments received on the proposed rule. After careful consideration of all the public comments received on the April 20, 2000 proposed rule, HUD has decided to adopt the proposed rule without significant change.

DATES: Effective Date: October 29, 2001. The information collection requirements required by this rule, however, will not be effective until the Office of Management and Budget (OMB) approves them under the Paperwork Reduction Act of 1995 and assigns them a control number. Publication of the control number, which will be by separate **Federal Register** notice, notifies the public that OMB has approved these information collection requirements.

FOR FURTHER INFORMATION CONTACT: Bruce Knott, Office of Native American Programs, at 303–675–1600, extension 3302, or email him at the following address: Bruce_A._Knott@hud.gov. Persons with hearing or speech impairments may access the above telephone number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION

I. Statutory Background

The implementing regulations for the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 *et seq.*) provide for the control of construction costs through HUD-established Dwelling Construction and Equipment limits, also referred to as DC&Es. (see 24 CFR 1000.156). The DC&E limits replaced a limit called Total Development Cost (TDC) which included an amount for DC&E as well as other costs such as administration, planning, site acquisition and financing. The tribe/TDHE is responsible for insuring that the amount of IHBG funds used for each unit does not exceed the most recently published DC&E limit for the area.

In an effort to provide flexibility in high cost situations, DC&E standards were designed to limit only the hard costs of construction within five feet of the foundation. Nevertheless, tribes/TDHEs which began using DC&E limits in place of TDC limits in accordance with 24 CFR part 1000 discovered that the new limits were still inadequate.

II. The April 20, 2000 Proposed Rule

On April 20, 2000 (65 FR 21288), HUD published a proposed rule to amend 24 CFR part 1000. The purpose of the proposed rule was to implement changes for dwelling cost limits by replacing the system of HUD-established DC&E limits with a choice between HUD-established TDC limits or tribally developed standards based on an assessment of local factors. The proposed rule also provided that the construction, acquisition, or assistance of non-dwelling structures be subject to tribally developed standards or to documentation of comparability to the size, design and amenities of similar buildings constructed in the geographic area.

III. Public Comments, Generally

The public comment period for the proposed rule closed on June 19, 2000. HUD received six public comments on the proposed rule. The comments were received from housing authorities, affiliated organizations and a law firm representing a municipality participating in the IHBG program.

Although the commenters expressed varying degrees of concern with the rule, most focus was on the narrow issue of mandatory HUD approval of excess construction costs where tribally developed alternative standards were in place. HUD appreciates the suggestions offered by the commenters and carefully considered the issues raised by them. Nonetheless, HUD's responsibility to protect the interests of all tribal grant recipients is of paramount importance. Additionally, the extensive and diverse tribal participation in the development of the rule coupled with the low overall number of comments submitted on the proposed rule indicates that the rule and its underlying policies are supported by a majority of the affected entities.

Several of the commenters suggested technical changes that did not alter the substance of the proposed rule. These changes were incorporated where appropriate to improve readability or better explain the policies and procedures contained in the rule. For example, one commenter suggested that the term ''non-dwelling buildings'' be changed to ''non-dwelling activities'' or ''non-dwelling affordable housing activities.'' HUD responded to this suggested change by replacing ''non-dwelling building'' with ''non-dwelling structure.'' Another commenter suggested moving a sentence from 24 CFR 1000.158 to 1000.156. HUD responded by moving the sentence as suggested since the modification improved the clarity of the rule.

IV. This Final Rule

For the reasons discussed below, HUD has decided to adopt the April 20, 2000 proposed rule without significant change. The following section of the preamble contains a discussion of the significant issues raised by the public commenters and HUD's response to their comments.

V. Discussion of the Public Comments Received on the April 20, 2000 Proposed Rule

Comment: Existing DC&E standards are adequate to cover the cost of constructing affordable residential dwellings. If TDC limits are restored, difficulties will arise in completing the construction of projects. DC&E standards should be retained.

HUD Response: The proposed rule change was initiated at the request of a large number of Indian tribes and organizations whose past experiences under the rule indicated that DC&E standards created barriers to the provision of affordable housing. Given the minimal comment on this proposed rule, HUD believes that the majority of tribes and TDHEs agree.

Comment: HUD should allow participants to continue using DC&E standards rather than requiring them to choose between published TDCs or tribally developed standards since TDCs are inadequate in areas with particularly high infrastructure costs. If

it is necessary to reinstate the TDC limits for the benefit of a majority of tribes, the rule should allow tribes the option to use DC&E limits as an acceptable alternative. While the option of allowing tribes to determine their own TDC limits may appear to be a solution to the way construction costs are controlled, this option can result in a significant amount of research and effort on the part of a tribe.

HUD Response: Although infrastructure costs within a housing site are included in TDC limits, the recipient may request an increased cost limit where necessary for a specific dwelling unit or project. The recipient may also provide documentation to HUD supporting a general increase in cost limits for their area if the cost of developing housing is consistently higher than the published cost limits. Furthermore, the TDC standard contained in the final rule poses no limitation on the cost of infrastructure outside the boundaries of a housing site. Given the ability of recipients to request an increase in cost limits where justified by local conditions, HUD believes that the potential benefit of maintaining dual limits is outweighed by the administrative burden of establishing and enforcing a second set of standards.

Comment: The term ''local'' should be expressly defined in the rule. This term is used throughout the rule and given the importance of the term for tribal formulations of written standards for houses and non-dwelling buildings, HUD should define this term.

HUD Response: To the maximum extent allowable under the enabling legislation, 24 CFR part 1000 encourages tribes to develop and implement programs in a regulatory environment supportive of self-determination. For the purposes of the final rule, the term ''local'' is given its usual and customary meaning, referring to the tribe's general geographic area.

Comment: HUD should describe in detail the procedure for reviewing tribally developed written standards for affordable housing programs. The rule should contain provisions for discussion or negotiation between a tribe and HUD before HUD makes a final decision to disapprove or modify tribal standards and a specific certification process should be included to address those instances when HUD accepts tribal standards under 24 CFR 1000.158 or 1000.162(c).

HUD Response: The rule does not include provisions for HUD's review and approval of tribally developed standards. HUD's review of tribally developed standards will, instead, be conducted in accordance with 24 CFR part 1000, subpart F which describes procedures for monitoring of recipients and the process for notification, discussion and appeal of HUD determinations. The rule does contain, in both 24 CFR 1000.158 and 1000.162, a narrative description of the process and the recordkeeping a tribe must employ when it elects to develop and use its own written standards.

Comment: The rule should specifically address the danger of earthquakes as a consideration in the development of written tribal standards. In order to ensure the safety and structural integrity of tribal homes and buildings in areas of active geological fault lines, the rule needs to require standards that address these concerns.

HUD Response: The list of considerations contained in 24 CFR 1000.158 is not exhaustive. It is intended to provide examples of items that may be assessed in the formulation of written tribal standards. A number of other environmental concerns, such as flooding, hurricanes and permafrost, are not expressly included in the list of considerations. These areas, along with the design or retrofitting of structures to withstand earthquake hazards, are addressed under generally applicable environmental regulations or other local codes and ordinances. Thus, they need not be specifically enumerated in the rule. These factors do, however, fall within the listed considerations of environmental concerns and mitigations, climate and design and construction features that are reasonable and necessary to provide decent, safe, sanitary and affordable housing.

Comment: The requirement for HUD approval of project costs exceeding 110% of the TDC limit should be eliminated or, in the alternative, the maximum allowable amount by which costs may exceed the TDC limit without HUD approval should be raised. If the tribe is allowed to develop its own standards for modest low income housing, the tribe should be allowed to develop the local costs of these standards. This requirement renders the development and adoption of local standards essentially meaningless.

HUD Response: The provision requiring HUD approval of project costs in excess of 110% of the TDC limit was added after completion of tribal consultation as a result of discussions conducted during pre-publication clearance. HUD believes that this provision is consistent with the intent of the consulting group since it operates for the general protection of all tribes for which program funds are being used to develop moderately designed housing. Tribes may still adopt written standards pursuant to 24 CFR 1000.158(b) and 1000.162(c)—and must request HUD review and approval only in extreme cost situations. In those situations where published TDC limits are inadequate to develop moderately priced housing, the tribe has the alternative of requesting revised limits for an individual project or their local area. Thus, the imposition of the 110% of TDC threshold for requiring HUD approval does not significantly curtail program flexibility.

Comment: Remove language in 24 CFR 1000.158(c) and 1000.162(a) which includes ''funding from all sources'' in the maximum development cost. A tribe should be allowed to add non-NAHASDA funds on top of the TDC and not have these funds included in the TDC. Under the prior TDC and DC&E guidance, tribes were allowed to exclude donations from TDC consideration. To now include donations in the TDC limit is a substantial deviation from all prior practices and guidance.

HUD Response: Grant recipients are required under 24 CFR 1000.156 to develop housing that is moderate in design and under 24 CFR 1000.160 to develop non-dwelling structures that are reasonable and necessary to accomplish the purpose of the intended building—regardless of the source of funds. In the past, a limited number of recipients have developed housing that was more than moderate in design by providing non-HUD funded assistance in addition to the published maximum HUD assistance for the project. The language in question merely reiterates that maximum cost provisions apply to all units whether assisted in whole or part with NAHASDA funds.

VI. Findings and Certifications

Public Reporting Burden

The information collection requirements contained in the rule will be submitted to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB approval number, once assigned, will be published in the **Federal Register**. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Consultation with Indian Tribal Governments

In accordance with Executive Order 13084, *Consultation and Coordination With Indian Tribal Governments*, issued on May 14, 1998, the Department has

consulted with representatives of tribal governments concerning the subject of this rule. As described above, the rule originated from concerns brought to HUD's attention by tribal representatives.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612) has reviewed and approved this final rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. While many TDHEs may be small entities, the effect of this rule developed in consultation with tribal representatives, will not be likely to have a significant impact on a substantial number of them. As mentioned above, it is expected that fewer than ten TDHEs will be affected by this rule. To the extent that small entities will be affected, the impact is expected to be beneficial, as a result of the consultation that has taken place. Accordingly, the economic impact of this final rule is not significant, and it will not affect a substantial number of small entities.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. This finding remains applicable to this final rule and is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Regulations Division at the address stated above.

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This final rule does not impose a Federal mandate that will result in the expenditure by State, local, or tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year.

Regulatory Review

The Office of Management and Budget (OMB) has reviewed this rule under Executive Order 12866, *Regulatory Planning and Review,* issued by the President on September 30, 1993. OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made in this rule as a result of that review are identified in the docket file, which is available for public inspection during regular business hours in the Regulations Division, Office of General Counsel, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program number applicable to 24 CFR part 1000 is 14.867.

List of Subjects in 24 CFR Part 1000

Aged, Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Low and moderate income housing, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 1000 as follows:

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

1. The authority citation for part 1000 continues to read as follows:

Authority: 25 U.S.C. 4101 *et seq.*; 42 U.S.C. 3535(d).

2. Revise § 1000.156 to read as follows:

§ 1000.156 Is affordable housing developed, acquired, or assisted under the IHBG program subject to limitations on cost or design standards?

Yes. Affordable housing must be of moderate design. For these purposes, moderate design is defined as housing that is of a size and with amenities consistent with unassisted housing offered for sale in the Indian tribe's general geographic area to buyers who are at or below the area median income. The local determination of moderate design applies to all housing assisted under an affordable housing activity, including development activities (*e.g.,* acquisition, new construction, reconstruction, moderate or substantial rehabilitation of affordable housing and homebuyer assistance) and model activities. Acquisition includes assistance to a family to buy housing. Units with the same number of bedrooms must be comparable with respect to size, cost and amenities.

3. Add new §§ 1000.158, 1000.160, and 1000.162 to read as follows:

§ 1000.158 How will a NAHASDA grant recipient know that the housing assisted under the IHBG program meets the requirements of § 1000.156?

(a) A recipient must use one of the methods specified in paragraph (b) or (c) of this section to determine if an assisted housing project meets the moderate design requirements of § 1000.156. For purposes of this requirement, a project is one or more housing units, of comparable size, cost, amenities and design, developed with assistance provided by the Act.

(b) The recipient may adopt written standards for its affordable housing programs that reflect the requirement specified in § 1000.156. The standards must describe the type of housing, explain the basis for the standards, and use similar housing in the Indian tribe's general geographic area. For each affordable housing project, the recipient must maintain documentation substantiating compliance with the adopted housing standards. The standards and documentation substantiating compliance for each activity must be available for review by the general public and, upon request, by HUD. Prior to awarding a contract for the construction of housing or beginning construction using its own workforce, the recipient must complete a comparison of the cost of developing or acquiring/rehabilitating the affordable housing with the limits provided by the TDC discussed in paragraph (c) of this section and may not, without prior HUD approval, exceed by more than 10 percent the TDC maximum cost for the project. In developing standards under this paragraph, the recipient must establish, maintain, and follow policies that determine a local definition of moderate design which considers:

(1) Gross area;

(2) Total cost to provide the housing;

(3) Environmental concerns and mitigations;

(4) Climate;

(5) Comparable housing in geographical area;

(6) Local codes, ordinances and standards;

(7) Cultural relevance in design;

(8) Design and construction features that are reasonable, and necessary to provide decent, safe, sanitary and affordable housing; and

(9) Design and construction features that are accessible to persons with a variety of disabilities.

(c) If the recipient has not adopted housing standards specified in paragraph (b) of this section, Total Development Cost (TDC) limits published periodically by HUD establish the maximum amount of funds (from all sources) that the recipient may use to develop or acquire/rehabilitate affordable housing. The recipient must complete a comparison of the cost of developing or acquiring/rehabilitating the affordable housing with the limits provided by the TDC and may not, without prior HUD approval, exceed the TDC maximum cost for the project.

§ 1000.160 Are non-dwelling structures developed, acquired or assisted under the IHBG program subject to limitations on cost or design standards?

Yes. Non-dwelling structures must be of a design, size and with features or amenities that are reasonable and necessary to accomplish the purpose intended by the structures. The purpose of a non-dwelling structure must be to support an affordable housing activity, as defined by the Act.

§ 1000.162 How will a recipient know that non-dwelling structures assisted under the IHBG program meet the requirements of 1000.160?

(a) The recipient must use one of the methods described in paragraph (b) or (c) of this section to determine if a non-dwelling structure meets the limitation requirements of § 1000.160. If the recipient develops, acquires, or rehabilitates a non-dwelling structure with funds from NAHASDA and other sources, then the cost limit standard established under these regulations applies to the entire structure. If funds are used from two different sources, the standards of the funding source with the more restrictive rules apply.

(b)(1) The recipient may adopt written standards for non-dwelling structures. The standards must describe the type of structures and must clearly describe the criteria to be used to guide the cost, size, design, features, amenities, performance or other factors. The standards for such structures must be able to support the reasonableness and necessity for these factors and to clearly identify the affordable housing activity that is being provided.

(2) When the recipient applies a standard to particular structures, it must document the following: (i) Identification of targeted population to benefit from the structures;

(ii) Identification of need or problem to be solved;

(iii) Affordable housing activity provided or supported by the structures;

(iv) Alternatives considered;

(v) Provision for future growth and change;

(vi) Cultural relevance of design;

(vii) Size and scope supported by population and need;

(viii) Design and construction features that are accessible to persons with a variety of disabilities;

(ix) Cost; and

(x) Compatibility with community infrastructure and services.

(c) If the recipient has not adopted program standards specified in paragraph (b) of this section, then it must demonstrate and document that the non-dwelling structure is of a cost, size, design and with amenities consistent with similarly designed and constructed structures in the recipient's general geographic area.

Dated: August 27, 2001.

Mel Martinez,

Secretary.

[FR Doc. 01–24269 Filed 9–27–01; 8:45 am]

BILLING CODE 4210–33–P

Federal Register

Friday,
September 28, 2001

Part VI

Environmental Protection Agency

40 CFR Part 136

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Whole Effluent Toxicity Test Methods; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL–7069–7]

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Whole Effluent Toxicity Test Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Today, EPA proposes to ratify its approval of several analytic test procedures measuring ''whole effluent toxicity,'' which the Agency standardized in an earlier rulemaking. Today's proposal also would modify some of those test procedures. EPA is proposing today's notice to satisfy obligations in a settlement agreement designed to resolve litigation over that earlier rulemaking. The proposed changes are intended to improve the performance of whole effluent toxicity (WET) tests, and thus increase confidence in the reliability of the results obtained using the test procedures.

DATES: Comments on this proposal must be postmarked, delivered by hand, or electronically mailed on or before November 27, 2001. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. Eastern Standard Time (EST) on November 27, 2001.

ADDRESSES: Send written or electronic comments on the proposed rule to ''Whole Effluent Toxicity (WET) Test Method Changes'' Comment Clerk (WETEU–IX); Water Docket (4101); Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW; Washington, DC—P 20460. EPA requests that commenters submit copies of any references cited in comments. Commenters also are requested to submit an original and three copies of their written comments and enclosures. Commenters that want receipt of their comments acknowledged should include a self-addressed, stamped envelope. All written comments must be postmarked or delivered by hand. No facsimiles (faxes) will be accepted. Hand deliveries should be delivered to EPA's Water Docket at 401 M Street, SW, Room EB57, Washington, D.C. 20460.

Comments may be submitted electronically to: *OW-Docket@epa.gov.* Electronic comments must be submitted as a Word Perfect 5/6/7/8 file or an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data also will be accepted on disks in WordPerfect 5/6/7/8 or ASCII file format. Electronic comments on this proposed rule may be filed online at any Federal Depository Library. All electronic comments must be identified by docket number (WET–IX). Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission.

The record for this rulemaking has been established under docket number WET–IX. A copy of the supporting documents cited in this proposal is available for review at EPA's Water Docket, East Tower Basement (Room EB 57), 401 M Street, SW, Washington, DC 20460. For access to docket materials, call (202) 260–3027 on Monday through Friday, excluding Federal holidays, between 9:00 a.m. and 3:30 p.m. EST to schedule an appointment.

This **Federal Register** document has been placed on the Internet for public review and downloading at the following location: http://www.epa.gov/fedrgstr/. The final report of EPA's WET Interlaboratory Variability Study, Volumes 1 and 2 (USEPA, 2001a; USEPA, 2001b) and the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d), which is referenced in today's rule and provides details of proposed changes, also are available on the Internet at http://www.epa.gov/waterscience/WET.

FOR FURTHER INFORMATION CONTACT: For regulatory information regarding this proposal, contact Marion Kelly, Engineering and Analysis Division (4303), Office of Science and Technology, Office of Water, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460 (e-mail: kelly.marion@epa.gov) or call (202) 260–7117. For technical information regarding method changes proposed in today's rule, contact Teresa J. Norberg-King, National Health and Environmental Effects Research Laboratory, Mid-Continent Ecology Division, Office of Research and Development, U.S. Environmental Protection Agency, 6201 Congdon Boulevard, Duluth, MN 55804 (e-mail: norberg-king.teresa@epa.gov) or call (218) 529–5163.

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

EPA Regions, as well as State, Territories and Tribes authorized to implement the National Pollutant Discharge Elimination System (NPDES) program, issue permits that comply with the technology-based and water quality-based requirements of the Clean Water Act. In doing so, the NPDES permitting authority, including authorized States, Territories, and Tribes, make a number of discretionary choices associated with permit writing, including the selection of pollutants to be measured and, in many cases, limited in permits. If EPA has ''approved'' (i.e., promulgated through rulemaking) standardized testing procedures for a given pollutant, the NPDES permitting authority must specify one of the approved test procedures or an approved alternate test procedure for the measurements required under the permit. In addition, when a States, Territory, or authorized Tribe provides certification of Federal licenses under CWA section 401, measurements required by such certifications must be made using the approved testing procedures. Categories and entities that may be regulated include:

Category	Examples of potentially affected/regulated entities
States, Territorial, and Indian Tribal Governments	States, Territories, and Tribes authorized to administer the NPDES permitting program; States, Territories, and Tribes that certify Federal licenses.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table also could be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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I. Statutory Authority

Today's proposal is pursuant to the authority of sections 101(a), 301, 304(h), 402, and 501(a) of the Clean Water Act (CWA), 33 U.S.C. 1251(a), 1311, 1314(h), 1342, 1361(a) (the ''Act''). Section 101(a) of the Act sets forth the ''goal of restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters'' and prohibits ''the discharge of toxic pollutants in toxic amounts.'' Section 301 of the Act prohibits the discharge of any pollutant into navigable waters unless the discharge complies with a National Pollutant Discharge Elimination System (NPDES) permit, issued under section 402 of the Act. Section 304(h) of the Act requires the Administrator of the EPA to ''promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit applications pursuant to section 402 of this Act.'' Section 501(a) of the Act authorizes the Administrator to ''prescribe such regulations as are necessary to carry out his function under this Act.''

II. Regulatory Background

Standardized analytical procedures for monitoring and reporting required in NPDES permits (40 CFR part 122, §§ 122.21, 122.41, 122.44, and 123.25), and in the implementation of the pretreatment standards issued under section 307 of the Act (40 CFR part 403, §§ 403.10 and 402.12) appear at 40 CFR part 136. There may be discharges that require limitations for certain parameters using test procedures not yet approved under 40 CFR part 136. Under 40 CFR 122.41(j)(4) and 122.44(i)(1)(iv) permit writers may include, through permit proceedings, parameters requiring the use of test procedures that are not approved part 136 methods. EPA also may include such parameters in accordance with the provisions prescribed at 40 CFR 401.13, ''Test Procedures for Measurements.'' Permits may include, for example, effluent limitations for WET using standardized testing procedures other than those published at 40 CFR part 136 that are approved for nationwide use. In such cases, use of the particular test species and test protocols would remain subject to challenge on a case-by-case basis in permit proceedings (except, for example, if an authorized State conducted rulemaking to standardize a particular testing procedure applicable within the State).

In 1995, EPA amended the ''Guidelines Establishing Test Procedures for the Analysis of Pollutants,'' 40 CFR part 136, to add a series of standardized whole effluent toxicity (WET) test methods to the list of Agency approved methods for CWA data gathering and compliance monitoring programs (60 FR 53529; October 16, 1995) (WET final rule). The WET final rule amended 40 CFR 136.3 (Tables IA and II) by adding acute toxicity methods and short-term methods for estimating chronic toxicity. These methods measure the toxicity of effluents and receiving waters to freshwater, marine, and estuarine organisms. Acute methods (USEPA, 1993b) generally use death of the test organisms during 24 to 96 hour exposure durations as the measured effect of an effluent or receiving water. The short-term methods for estimating chronic toxicity (USEPA, 1994a; USEPA, 1994b) use longer durations of exposure (up to nine days) to ascertain the adverse effects of an effluent or receiving water on survival, growth, and/or reproduction of the organisms. For this rulemaking notice, the short-term methods for estimating chronic toxicity will be referred to as chronic methods for ease of notation.

Standardized test procedures for conducting the approved acute and chronic WET tests are provided in the following three method manuals, which were incorporated by reference in the WET final rule: Methods for Measuring the Acute Toxicity of Effluents and Receiving Water to Freshwater and Marine Organisms, Fourth Edition, August 1993, EPA/600/4–90/027F (acute method manual); Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms, Third Edition, July 1994, EPA/600/4–91/002 (freshwater chronic method manual); and Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Marine and Estuarine Organisms, Second Edition, July 1994, EPA/600/4–91/003 (marine chronic method manual).

After promulgation of the WET methods, a variety of parties filed suit challenging the EPA rulemaking (*Edison Electric Institute* v. *EPA*, No. 96–1062 (D.C. Cir.); *Western Coalition of Arid States* v. *EPA*, No. 96–1124; *Lone Star Steel Co.* v. *EPA*, No. 96–1157 (D.C. Cir.)). To resolve that litigation, EPA entered into settlement agreements with the various parties. EPA proposes actions today to fulfill obligations under some of those settlement agreements.

In February 1999, EPA published a technical corrections notice that incorporated into the WET final rule an errata document to correct minor errors and omissions, provide clarification, and establish consistency among the WET final rule and method manuals (64 FR 4975; February 2, 1999). Further background on the WET test methods and these technical documents are included in the **Federal Register** notices cited above (60 FR 53529 and 64 FR 4975).

III. Explanation of Today's Action

A. Introduction

Today's proposal would make a number of revisions to the currently approved WET test methods. See section III.B. Also in today's action, EPA presents final results of an interlaboratory variability study of WET test methods and, based on these results, proposes to ratify 11 of the 12 methods evaluated in the study (see section III.C). Today's proposal requests public comment on the inclusion of additional technical changes to the approved WET test methods and on EPA's proposal to ratify 11 of 12 WET test methods.

Although today's action fulfills portions of settlement agreements resolving litigation over the 1995 WET test method rulemaking, EPA acknowledges that some stakeholders still have significant concerns related to implementation of WET control strategies through NPDES permits. By today's proposal, EPA intends to focus only on analytic testing methodologies to measure WET, not on WET implementation generally.

Since the 1995 WET final rule, EPA and authorized States have taken additional actions to improve and enhance implementation of WET control strategies. EPA, for example, has published additional guidance on the conduct of a toxicity identification evaluation (TIE) and a toxicity reduction evaluation (TRE), as well as guidance on the circumstances that trigger such evaluations (USEPA, 1999c; USEPA, 2001g).

Other questions have arisen about the significance of EPA action to standardize WET testing procedures through rulemaking. For example, some stakeholders question whether, by promulgating WET test methods, EPA has published recommended water quality criteria (pursuant to CWA section 304(a)) for ''toxicity.'' To respond and clarify, EPA's promulgation of WET test procedures are not water quality criteria recommendations under section 304(a). When States develop and implement water quality standards, including narrative water quality criteria, States should translate those criteria into measurable expressions of toxicity. The test methods themselves are not per se translators of the narrative criterion: ''no toxics in toxic amounts.'' The test methods are merely the measurement tools according to which such criteria may be translated.

Today's proposed revisions include changes to the three method manuals (USEPA, 1993b; USEPA, 1994a; USEPA, 1994b) incorporated by reference in the WET rule (60 FR 53529; October 16, 1995) and amend the ''Guidelines Establishing Test Procedures for the Analysis of Pollutants'' (40 CFR part 136) to reference the updated editions of the method manuals. Modifications to the method manuals are intended to update the methods, provide additional minor corrections and clarifications, and address specific stakeholder concerns (see Section III.B). EPA proposes to update the methods (1) by incorporating previous method addenda and errata and (2) by revising method precision statements to reflect results from recent EPA studies (USEPA, 2000d; USEPA, 2001a). In addition to corrections identified in previous method addenda and errata, EPA proposes to correct other minor technical errors and omissions. EPA also seeks comment on an additional modification to WET test methods that would require the application of upper and lower bounds on the percent minimum significant difference (PMSD) calculated in WET tests (see section V.B).

EPA also proposes method revisions in response to specific stakeholder concerns. Specifically, these revisions include: requiring ''blocking'' by known parentage in the Ceriodaphnia dubia Survival and Reproduction Test; adding procedures to control pH drift that may occur during testing; incorporating review procedures for the evaluation of concentration-response relationships; clarifying allowable nominal error rate adjustments; clarifying limitations in the generation of confidence intervals; adding guidance on dilution series selection; clarifying dilution water acceptability; and adding procedures for determining and minimizing the impact of pathogens in the Fathead Minnow Survival and Growth Test. These are summarized below in section III.B and detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d). Proposal of these revisions partially fulfills the requirements of two settlement agreements between stakeholders and EPA (*Edison Electric Institute, et al.* v. *EPA*, No. 96–1062 & consolidated case (D.C. Cir.), Settlement Agreement, July 24, 1998; *Lone Star Steel* v. *EPA*, No. 96–1157 (D.C. Cir.), Settlement Agreement, March 4, 1998).

EPA requests public comment on the proposed changes to the WET test methods and on the proposal to ratify the WET test methods (see section V). When EPA takes final action on today's proposal, the Agency intends to incorporate the modifications proposed today into the text of new editions of each of the WET method manuals.

B. Proposed Method Changes

Today, EPA proposes to revise each of the WET method manuals (USEPA, 1993b; USEPA, 1994a; USEPA, 1994b). Proposed method changes include: (1) updates to the methods, (2) minor corrections and clarifications, and (3) modifications to address specific stakeholder concerns. These method changes are described in Sections 1 through 3 below and are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d), which is included in the docket supporting today's rule and is available online at http://www.epa.gov/waterscience/WET.

1. Updates

a. Incorporation of Previous Addenda and Errata

Subsequent to promulgating the WET final rule in 1995, EPA issued several documents to correct and amend that rule and its supporting documentation. Specifically, in February 1999, EPA published a final rule that incorporated into the WET rule an errata document (USEPA, 1999a) to correct minor errors and omissions in the WET method manuals (64 FR 4975; February 2, 1999). In addition, a 1996 addenda document (USEPA, 1996a) revised the 1993 acute method manual (USEPA, 1993b). Today, EPA proposes to incorporate the changes noted in the errata and the addenda documents into the text of the appropriate method manuals by issuing revised editions of each of the three method manuals. EPA plans to issue the revised editions when it takes final action on this proposal. The incorporation of the errata and addenda into the method manual text would not further alter the methods. This action would simply assist users of the method manuals by incorporating all previous corrections into updated editions.

b. Update of Method Precision Data

Since publishing the WET method manuals, EPA has conducted two large-scale studies of WET test method precision. During 1999 and 2000, EPA conducted an interlaboratory variability study (the WET Variability Study) of 12 of the 17 WET test methods promulgated at 40 CFR part 136. This study generated data from more than 700 blind samples tested in 55 laboratories. EPA published interlaboratory precision results from the WET Variability Study in 2000 (USEPA, 2000b; USEPA, 2000c) and submitted the study results for expert

peer review in 2001 (USEPA, 2001c). Following expert peer review, EPA published a final study report (USEPA, 2001a; USEPA, 2001b).

In addition to the WET Variability Study, EPA conducted a study of intralaboratory WET test precision based on routine laboratory reference toxicant test data. EPA compiled a database of more than 1,800 reference toxicant tests conducted for 23 different methods between 1988 and 1999 in 75 laboratories. EPA used this database to quantify estimates of precision for each of the WET methods. EPA published this precision data and additional guidance on reducing method variability in a guidance document titled, Understanding and Accounting for Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program (USEPA, 2000d) (the Variability Guidance Document).

In today's action, EPA proposes to modify the WET method manuals by updating statements and inserting tables regarding the multi-laboratory (interlaboratory) and single-laboratory (intralaboratory) precision of the methods using data from the WET Variability Study and the Variability Guidance Document. Results from these two studies represent the most current and complete data available on intralaboratory and interlaboratory precision of WET test methods. The proposed changes would modify the chronic method manuals (USEPA, 1994a; USEPA, 1994b) by revising subsections on precision and accuracy for several test methods. The proposed changes also would modify Section 4 (Quality Assurance) of each of the method manuals (USEPA, 1993b; USEPA, 1994a; USEPA, 1994b) to update statements on test method variability and precision. The specifics of the proposed method manual changes related to updating precision statements are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d).

2. Minor Corrections and Clarifications

In addition to the incorporation of changes identified in the 1999 errata (USEPA, 1999a) and the acute manual addenda (USEPA, 1996a), EPA proposes to correct additional minor errors and omissions in the WET method manuals. All of the minor corrections and clarifications identified to date are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d). This list may not be exhaustive, and EPA proposes to correct additional minor errors and omissions that become apparent during the correcting or revising of sections of the WET method manuals.

3. Specific Stakeholder Concerns

Today, EPA also proposes to modify the WET method manuals to address specific stakeholder concerns. The proposed modifications are summarized in Sections a through h below and are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d), which is included in the docket supporting today's rule and is available online at http://www.epa.gov/waterscience/WET. Proposal of these revisions partially fulfills the requirements of two settlement agreements between stakeholders and EPA (*Edison Electric Institute, et al.* v. *EPA,* Settlement Agreement, July 24, 1998; *Lone Star Steel* v. *EPA,* Settlement Agreement, March 4, 1998).

a. Blocking by Known Parentage

EPA proposes to amend the Ceriodaphnia dubia Survival and Reproduction Test (section 13 of USEPA, 1994a) to require that test organisms be allocated using ''blocking by known parentage.'' Blocking by known parentage is a block randomization technique for allocating test organisms among test chambers such that offspring from a single female are distributed evenly among the test treatments (one per treatment). In this arrangement, a block consists of the set of six test chambers (one for each test treatment) containing organisms derived from a single female parent.

Currently, the promulgated method describes a blocking by known parentage procedure for use in test setup, but the method does not require the use of this procedure. Today's proposal would require the use of blocking by known parentage by using compulsory terms such as ''must'' and ''shall.'' The procedure described for test setup in the current promulgated method would be retained as an example of how blocking by known parentage may be accomplished.

In association with a blocking by known parentage requirement, today's proposal also would add guidance on the treatment of males that may occur in tests. The proposed changes would require exclusion of an entire block from reproduction analysis (i.e., calculation of the no observed effect concentration for reproduction and the 25% inhibition concentration for reproduction) when 50% or more of the surviving organisms in that block are identified as males. If less than 50% of surviving organisms in a block are identified as males, only those males would be excluded from the reproduction analysis. The proposed changes also would stipulate that a test is invalid if fewer than eight replicates remain in the control after excluding individual males and necessary blocks (i.e., those having 50% or more of surviving organisms identified as males). The specifics of all proposed method manual changes related to blocking by known parentage are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d).

Blocking by known parentage provides at least two benefits to the performance of the Ceriodaphnia dubia Survival and Reproduction Test (USEPA, 2001e). First, this technique of test organism allocation ensures that any ''brood effect'' is evenly distributed among the test treatments. Brood effects include differences in organism fecundity or sensitivity that may be attributed to the health or genetics of the parent organism. Blocking by known parentage minimizes any potential bias that may be caused by one test treatment receiving an inordinate number of underperforming (or overperforming) young from the same parent organism. In an analysis of 389 tests from EPA's reference toxicant test database (USEPA, 2000d) and 102 tests from EPA's WET Variability Study (USEPA, 2001a), 9% and 25% of tests, respectively, showed statistically significant (alpha = 0.05) block effects on the reproduction endpoint (USEPA, 2001e). This means that, for these tests, the number of offspring produced by test organisms was significantly affected by the parental source of those test organisms. The blocking by known parentage technique distributes this effect evenly across the test treatments to ensure that observed differences in reproduction between treatments are due to the effect of the treatment and not the parental source of test organisms.

A second benefit of blocking by known parentage would be that it provides a means of minimizing the impact of male production on test performance. In healthy cultures, Ceriodaphnia dubia generally reproduce parthenogenetically to produce cloned females for use in testing. Under conditions of environmental stress, however, cladocerans (such as Ceriodaphnia dubia and Daphnia magna) are known to produce males (Pennak, 1989), which can negatively affect the performance of toxicity tests designed to measure reproductive

effects (Haynes et al., 1989). When using blocking by known parentage, males produced by a given brood female are contained within a single block of the test rather than randomly scattered throughout the test. If a large number of males are produced from a given brood female, the associated block may be removed from the analysis of reproduction, thereby minimizing the effect of those males on the test. Blocking by known parentage also allows the source of males to be identified, so that potential problems with culture health can be more easily isolated.

b. pH Drift

During the conduct of static or static-renewal WET tests, the pH in test containers may fluctuate or drift from the initial pH value. This pH drift may be upward or downward depending upon test conditions and sample characteristics. For instance, the addition of food substances such as algae may cause a decrease in pH, while the loss of carbon dioxide (CO_2) from supersaturated effluent samples may cause an increase in pH. A change in pH during testing means that an effluent sample might be tested for toxicity at a different pH than the effluent sample pH at the point of discharge. Under certain circumstances, this pH drift could influence sample toxicity and be considered a test interference. For this reason, EPA is proposing to provide guidance in the chronic method manuals (USEPA, 1994a; USEPA, 1994b) on how to identify if pH drift is a test interference and how to control test pH if artifactual toxicity due to pH drift is confirmed.

For most tests, the range of pH drift is small, is well within the organisms' tolerance range, and does not interfere with the analysis of whole effluent toxicity. In EPA's WET Variability Study (USEPA, 2001a), daily pH drift in blank samples averaged only +0.1 units (with a range of −0.3 to +0.8 among 35 tests) in the Ceriodaphnia dubia Survival and Reproduction Test and −0.1 units (with a range of −1.4 to +0.7 among 25 tests) in the Fathead Minnow Larval Survival and Growth Test. For effluent samples (municipal wastewater spiked with KCl) analyzed in EPA's WET Variability Study, pH drift in the 100% sample increased slightly for the Ceriodaphnia dubia Survival and Reproduction Test, averaging +0.3 units (with a range of −0.2 to +1.1 among 28 tests). For the Fathead Minnow Larval Survival and Growth Test, daily pH drift in effluent samples averaged −0.1 units (with a range of −0.6 to +0.4 among 28 tests), the same degree of drift observed in blank samples. Ninety percent of Ceriodaphnia dubia Survival and Reproduction Tests (126 tests) experienced absolute pH drift (up or down) of less than 0.7 units, and 90% of Fathead Minnow Larval Survival and Growth Tests (105 tests) experienced absolute pH drift of less than 0.5 units.

While pH drift was relatively mild for most samples analyzed in the WET Variability Study (USEPA, 2001a), other effluent samples may routinely exhibit a greater degree of pH drift. For example, municipal wastewater from Publicly-Owned Treatment Works (POTW) is typically discharged at a pH of 7.2–7.4, but the pH may equilibrate after contact with air and stabilize at 8.0–8.5 (USEPA, 1992). In a 1998 survey of 433 POTWs, 39% of respondents indicated that upward drift of effluent sample pH had been observed during acute or chronic WET testing (DeGraeve *et al.*, 1998). Upward pH drift in POTW effluent is generally caused by dissipation of CO_2 from the sample. Biological treatment often produces an effluent that is supersaturated with CO_2. As dissolved CO_2 in the supersaturated sample equilibrates with the atmospheric CO_2 concentration, CO_2 is lost from the sample. Because dissolved CO_2 acts as a weak acid, pH increases as CO_2 is lost. In cases where pH drift is due to the effluent characteristics, the degree of drift will be greatest in the 100% effluent concentration and will decrease with decreasing test concentrations.

EPA does not consider pH drift alone to be an interference in WET testing if pH is within the organism's tolerance range (typically pH 6 to 9). Belanger and Cherry (1990) showed that Ceriodaphnia dubia survival and reproduction did not differ significantly in receiving water tests conducted at pH values ranging from 6 to 9. The degree of pH drift typically observed in effluent samples should generally only interfere with test results if the sample contains a compound with toxicity that is pH dependent and at a concentration that is near the toxicity threshold. Compounds with pH-dependent toxicity are those with chemical characteristics that allow sufficient differences in dissociation, solubility, or speciation to occur within a physiologically tolerable pH range of 6 to 9 (Schubauer-Berigan *et al.*, 1993). Examples of such compounds include ammonia, metals, hydrogen sulfide, cyanide, and ionizable organics. Ammonia, for instance, is very common in effluent samples, and its toxicity changes sharply within the typical effluent pH range of 7 to 8.5. As pH increases and the temperature is held relatively constant, the percent of total ammonia in the un-ionized form increases (USEPA, 1994a; Emerson *et al.*, 1975). Because the un-ionized form of ammonia (NH3) is significantly more toxic than the ionized form (NH_4^+), toxicity increases as pH increases. For metals, toxicity may increase or decrease with increasing pH. Lead and copper were found to be more acutely toxic at pH 6.5 than at pH 8.0 or 8.5, while nickel and zinc were more toxic at pH 8.5 than at pH 6.5 (USEPA, 1992). pH-dependent toxicity is likely to be affected by temperature, dissolved oxygen, CO_2 concentrations, and total dissolved solids (USEPA, 1992). When pH-dependent compounds are present at concentrations near the threshold for toxicity, pH drift during WET testing may produce artifactual toxicity, or toxicity that would not have been observed if the initial test pH had been maintained.

In addition to the issue of pH drift affecting toxicity in the presence of pH-dependent compounds, stakeholders have raised concerns about daily pH drift and sample renewal cycles producing toxicity even in the absence of pH-dependent compounds. The circumstance of concern would be in static-renewal tests, where the pH may change between the time test organisms are placed into the test solutions and the time at which the test solution is renewed. At renewal, the pH of test solutions may be quickly returned to the initial sample pH. For chronic tests that require daily renewal, a daily cycle of pH drift and renewal may be established. Stakeholders expressed concern that, if the difference in pH between the test solution and the renewal solution is great, these adjustments in pH at renewal may cause shock to the test organisms. Because the control treatment does not always experience the same pH drift as effluent treatments, any shock resulting from daily renewal would be experienced only in effluent treatments and artifactual toxicity could result. In a 1998 settlement agreement with these stakeholders (*Edison Electric Institute, et al.* v. *EPA*, Settlement Agreement, July 24, 1998), EPA agreed to propose changes to the WET methods that would provide methodological solutions for controlling pH drift.

Currently, the WET method manuals (USEPA, 1993b; USEPA, 1994a; USEPA, 1994b) provide guidance for effluent samples that arrive (i.e., at the testing laboratory prior to testing) with a pH outside of the 6.0 to 9.0 range. This range represents the general organism tolerance range, so pH values outside of this range may produce toxic effects due to pH alone. For samples that arrive

with a pH outside of this range, the current method manuals require adjustment of the sample to pH 7 for freshwater testing or pH 8 for marine testing. The method manuals also suggest brief aeration of samples prior to use if dissolved oxygen levels are not at or near saturation. Aeration provides the benefit of bringing other dissolved gases (e.g., CO_2) into equilibrium with the atmosphere and stabilizing pH, but use of aeration should be minimized to reduce the loss of volatile chemicals.

In 1996, EPA issued additional guidance on ammonia and pH control in chronic testing (USEPA, 1996b). This guidance recognized that the analyst has flexibility to control artifactual toxicity caused by pH drift in chronic tests provided that the analyst verifies that the source of toxicity is, in fact, artifactual. To verify that the toxicity is artifactual, EPA recommended parallel testing using one test with an adjusted pH and one test without an adjusted pH. If toxicity is removed or reduced when pH is adjusted, the source of toxicity could be artifactual and pH could be controlled in the testing of the effluent. This guidance acknowledged that pH could be controlled during testing with procedures that do not significantly alter the nature of the sample.

Today, EPA proposes to modify the chronic method manuals (USEPA, 1994a; USEPA, 1994b) to incorporate procedures for controlling pH drift in static-renewal tests when sample toxicity is confirmed to be artifactual and caused by pH drift. EPA proposes adding guidance that is consistent with the 1996 USEPA guidance on pH and ammonia control in chronic testing (USEPA, 1996b), and extending this guidance to include situations where artifactual toxicity is caused by pH drift in the absence of ammonia.

The proposed method changes would require that, prior to the use of pH control techniques, the analyst must confirm that observed toxicity is artifactual and caused by pH drift. Evidence of artifactual toxicity would be demonstrated by conducting parallel tests: one with controlled pH and one with uncontrolled pH. Several such parallel tests conducted on a given effluent may be required by the regulatory authority to verify that the toxicity observed in that effluent is artifactual and caused by pH drift (as opposed to variability in effluent samples). Following this determination, the regulatory authority may allow pH control in subsequent chronic toxicity testing of the effluent. The proposed method changes would specify the use of acid/base addition and/or a CO_2-controlled atmosphere technique for adjusting and controlling pH in chronic tests.

The CO_2-controlled atmosphere technique that is proposed for pH control in chronic tests is conducted using enclosed test chambers with CO_2 injected into the headspace above the test solution (USEPA, 1991a; USEPA, 1992; USEPA, 1996c; Mount and Mount, 1992). An enriched-CO_2 environment increases the dissolution of CO_2 into the sample, which acts as a weak acid to prevent pH increases. This technique uses the natural carbonate buffering system to control pH and requires minimal alteration of the sample. This technique is one method recommended for adjusting pH in toxicity identification evaluations (TIEs) (USEPA, 1991a; USEPA, 1992; USEPA, 1996c).

In acute testing, the proposed method changes would recommend the use of static-renewal testing or flow-through testing when artifactual toxicity due to pH drift is suspected. The use of static-renewal testing may reduce the degree of pH drift (compared to static non-renewal tests), and flow-through testing should eliminate pH drift that could occur due to static testing conditions. In flow-through testing, new sample is continually added to the test chambers, so drift from the initial sample pH should not occur. Flow-through testing also eliminates any potential for organism shock from pH drift and renewal cycles, because test renewal is continuous. Because flow-through testing provides an available option for reducing pH drift in acute tests without modifying the sample, EPA does not propose additional techniques (such as acid/base addition and/or CO_2-controlled atmosphere techniques that are proposed for chronic test methods) for pH control in acute test methods.

The specifics of all proposed method manual changes related to pH drift are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d). The proposed changes related to pH drift will affect all methods in the freshwater chronic method manual (USEPA, 1994a), except for the *Selenastrum capricornutum* Growth Test; and all methods in the marine chronic method manual (USEPA, 1994b), except for the *Arbacia punctulata Fertilization* Test and the *Champia parvula* Reproduction Test. The *Selenastrum, Arbacia,* and *Champia* tests do not require test solution renewal, so daily pH fluctuations should not be a concern. Proposed changes to the acute method manual (USEPA, 1993b) would simply recommend the use of static-renewal testing or flow-through testing when artifactual toxicity due to pH drift is suspected. EPA invites comments on how pH drift would and should be addressed in WET testing (see Section V.A).

c. Concentration-Response Relationships

The concentration-response relationship established between the concentration of a toxicant and the magnitude of the response is a fundamental principle of toxicology. This principle assumes that there is a causal relationship between the dose of a toxicant (or concentration for toxicants in solution) and a measured response. A response may be any measurable biochemical or biological parameter that is correlated with exposure to the toxicant. The classical concentration-response relationship is depicted as a sigmoidal-shaped curve with detrimental responses increasing as the concentration of the toxicant increases. Not all concentration-response relationships, however, are represented by the classical sigmoidal-shaped curve. A corollary of the concentration-response concept is that every toxicant should exhibit a concentration-response relationship, given that the appropriate response is measured and given that the concentration range evaluated is appropriate. Use of this concept can be helpful in determining whether an effluent sample causes toxicity and in identifying anomalous test results.

In July 2000, EPA published guidance on evaluating concentration-response relationships to assist in determining the validity of WET test results (USEPA, 2000a). This document explained the concentration-response concept and provided review steps for 10 different concentration-response patterns that may be encountered in WET test data. Based on the results of the review, the guidance anticipates one of three determinations: (1) that calculated effect concentrations are reliable and should be reported; (2) that calculated effect concentrations are anomalous and should be explained; or (3) that the test was inconclusive and should be repeated with a newly collected sample.

In today's action, EPA proposes to require the review of concentration-response relationships generated for all multi-concentration WET tests reported under the NPDES program. EPA proposes to modify section 10 of the two chronic method manuals (USEPA, 1994a; USEPA, 1994b) and section 12 of the acute method manual (USEPA, 1993b) to incorporate this required test review procedure. The modified sections would explain the

concentration-response concept, require the review of concentration-response relationships, and reference EPA guidance (USEPA, 2000a) describing various forms of concentration-response relationships and review procedures. Use of the concentration-response review procedures (USEPA, 2000a) would ensure that a valid concentration-response relationship is demonstrated prior to the determination of toxicity. EPA intends to maintain the review procedures described in the guidance document (USEPA, 2000a) as ''guidance'' because these procedures may be revised as new information on the review of concentration-response relationships (including additional forms of concentration-response relationships) becomes available.

To demonstrate the effectiveness of the proposed concentration-response review steps, EPA used the guidance on concentration-response relationships (USEPA, 2000a) in the review and reporting of results from EPA's WET Variability Study (USEPA, 2001a). In this study, 635 valid tests (i.e., those that met test acceptability criteria) were reviewed according to the proposed concentration-response evaluation procedures. Based on these review procedures, the calculated effect concentrations in 14 tests were determined to be anomalous, and the effect concentrations calculated in 9 tests were determined to be inconclusive. Eight of the 23 test results that were considered anomalous or inconclusive had erroneously indicated toxicity in blank samples. These results would have been reported as false positives if the concentration-response review procedures had not been used. This study indicates that the proposed concentration-response review procedures are effective in reducing the incidence of false positives in WET testing. The use of these review procedures reduced the rate of reported false positives in the WET Variability Study from 11.1% to 3.7% for the Ceriodaphnia dubia Survival and Reproduction Test; from 12.5% to 4.35% for the Fathead Minnow Larval Survival and Growth Test; from 14.3% to 0% for the Mysidopsis bahia Survival, Growth, and Fecundity Test; and from 14.3% to 0% for the Inland Silverside Larval Survival and Growth Test.

In addition to requiring the review of concentration-response relationships, EPA proposes to modify section 12 of the acute method manual (USEPA, 1993b) and section 10 of the two chronic method manuals (USEPA, 1994a; USEPA, 1994b) to consolidate other important test review components that are described elsewhere in the method manuals. These revised sections, titled ''Report Preparation and Test Review,'' would describe the review of sample collection and handling conditions, test acceptability criteria, test conditions, statistical methods, concentration-response relationships, reference toxicant testing, and test variability. The specifics of the proposed method manual changes related to concentration-response relationship evaluation and other test review components are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d).

The quality of WET Variability Study data (USEPA, 2001a; USEPA, 2001b) used to make decisions for this rulemaking is of primary importance to the Agency and to stakeholders. These data and the test review and acceptance criteria used in the WET Variability Study are detailed in a final study report contained in the record for this rulemaking (USEPA, 2001a). Some stakeholders believe that EPA improperly applied different standards in accepting or rejecting data generated in the WET Variability Study and departed from the stated objectives of the study design. EPA is proposing test review procedures consistent with the test reviews that EPA conducted on data developed in the WET Variability Study (though EPA notes that the objectives of the study differ from those associated with compliance monitoring). EPA proposes modifications to standardize the minimum elements of WET test review. While some of these test review components provide specific criteria for the acceptance or rejection of test results (e.g., the method test acceptability criteria), others (e.g., review of test conditions, reference toxicant testing, and concentration-response relationships) must be reviewed within the context of the test objective. Also, State and/or regional regulatory authorities may require additional test review components and criteria to further standardize the reporting and review of WET test data. EPA requests comment on the acceptance, interpretation, and use of the WET Variability Study data and on the proposed section of the method manuals titled, ''Report Preparation and Test Review''.

d. Nominal Error Rates

WET test results (i.e., effect concentrations) may be determined by point estimation or hypothesis testing techniques (USEPA, 1994a; USEPA, 1994b). Hypothesis testing techniques compare responses in the control treatment with responses in other treatments to test the ''null hypothesis'' that there is no statistically significant difference between the treatments (i.e., that the effluent is not toxic). To determine when a difference between treatments is large enough to be statistically significant, the statistician or analyst must select a nominal error rate. The nominal error rate, or alpha level, is an intended upper bound on the probability of incorrectly concluding that the treatments are different when, in fact, they are not (a Type I statistical error). The larger the alpha level, the greater the probability of incorrectly rejecting the null hypothesis (i.e., determining that the effluent is toxic when, in fact, it is not). For all WET tests, EPA recommends using an alpha level of 0.05, which corresponds to a 5% probability of making a Type I error.

In response to stakeholder concerns that an alpha level of 0.05 does not adequately protect against Type I errors (Moore et al., 2000; *Edison Electric Institute, et al.* v. *EPA*, Settlement Agreement, July 24, 1998), EPA published guidance on nominal error rate selection (USEPA, 2000a). This guidance clarifies that the alpha level may be reduced to 0.01 in specific circumstances. These circumstances include instances when sublethal endpoints from Ceriodaphnia dubia or fathead minnow tests are reported under NPDES permit requirements, or when WET permit limits (based on any WET method) are derived without allowing for receiving water dilution. Even under these circumstances, however, the alpha level may be reduced only in tests that meet a fixed criterion for test sensitivity because reductions in the alpha level also reduce statistical power. Specifically, the percent minimum significant difference (PMSD) calculated for the test using an alpha level of 0.01 should be less than or equal to criteria set forth in the guidance document (USEPA, 2000a). The document also provides guidance on determining the need for additional test replication to meet PMSD criteria and guidance on the decision process for reducing the nominal error rate in hypothesis testing.

In today's action, EPA proposes to modify the chronic WET method manuals (USEPA, 1994a; USEPA, 1994b) to clarify the circumstances under which the recommended alpha level may be reduced. The proposed change would modify subsection 9.4.6 (Recommended Alpha Levels) of the two chronic method manuals (USEPA, 1994a; USEPA, 1994b). This subsection would maintain the current recommendation that an alpha level of 0.05 be used for hypothesis testing. In

addition, the subsection would identify the specific circumstances where the alpha level used for hypothesis testing could appropriately be reduced from 0.05 to 0.01. The subsection would describe these circumstances and reference the published guidance (USEPA, 2000a) for information on determining adequate test sensitivity and determining the appropriateness of reductions in the alpha level. The specifics of the proposed method manual changes related to nominal error rates are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d).

e. Confidence Intervals

Point estimation techniques described in the WET method manuals are used to generate effect concentrations and associated 95% confidence intervals (USEPA, 1993b; USEPA, 1994a; USEPA, 1994b). Software used to conduct these statistical procedures occasionally do not provide the associated confidence intervals. This situation may arise when test data do not conform with specific assumptions required by the statistical methods, when point estimates are outside of the test concentration range, and when specific limitations imposed by the software are encountered. In July 2000, EPA published guidance on the specific circumstances under which confidence intervals are not generated or are not suitable (USEPA, 2000a).

In today's action, EPA proposes to modify the WET method manuals to clarify the circumstances under which confidence intervals are not generated by point estimation techniques and to reference the published guidance on this issue (USEPA, 2000a). The proposed change would modify subsection 9.3.2 (Point Estimation Techniques) of the two chronic method manuals (USEPA, 1994a; USEPA, 1994b) and subsection 11.2 (Determination of the LC50 from Definitive, Multi-Effluent-Concentration Acute Toxicity Tests) of the acute method manual (USEPA, 1993b). The specifics of the proposed method manual changes related to confidence intervals are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d).

f. Dilution Series

In multi-concentration (definitive) WET tests, organism effects are measured in a range of effluent concentrations. The dilution series selected for the test defines the concentrations of effluent tested. The WET methods recommend preparing test concentrations using a dilution factor of greater than or equal to 0.5 and provide an example dilution series of 100%, 50%, 25%, 12.5%, and 6.25% effluent. While this particular dilution series is commonly used in WET testing, test concentrations for each test should be selected independently based on the objective of the study, the expected range of toxicity, the receiving water concentration (or instream waste concentration), and any available historical testing information on the effluent. The dilution series should be selected to optimize the precision of calculated effect concentrations and assist in establishing concentration-response relationships. In July 2000, EPA published guidance on selecting appropriate dilution series for WET testing (USEPA, 2000a).

In today's action, EPA proposes to modify the WET method manuals to reference the published guidance on selecting dilution series (USEPA, 2000a) and to clarify that dilution series should be selected independently for each test based on the objective of the study, the expected range of toxicity, the receiving water concentration (or instream waste concentration), and any available historical testing information on the effluent. The proposed change would modify subsection 8.10 (Multi-concentration [Definitive] Effluent Toxicity Tests) of the two chronic method manuals (USEPA, 1994a; USEPA, 1994b) and subsection 9.3 (Multi-concentration [Definitive] Effluent Toxicity Tests) of the acute method manual (USEPA, 1993b). The specifics of the proposed method manual changes related to dilution series selection are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d).

g. Dilution Waters

Test concentrations in definitive WET tests are prepared by diluting the effluent sample with an appropriate dilution water. The WET methods allow the use of natural receiving waters or synthetically prepared waters for dilution. Because the choice of dilution water can affect WET test results (Cooney et al., 1992; Belanger et al., 1989; DeLisle and Roberts, 1988), selecting an appropriate dilution water is important. To assist in this process, EPA published guidance on dilution water selection (USEPA, 2000a) that clarifies what EPA considers to be an acceptable dilution water. An acceptable dilution water is one that is appropriate for the objectives of the test; supports adequate performance of the test organisms with respect to survival, growth, reproduction, or other responses that may be measured in the test (i.e., consistently meets test acceptability criteria for control responses); is consistent in quality; and does not contain contaminants that could produce toxicity. The guidance also provides recommendations on how to select an appropriate dilution water based on the objectives of the test, the condition and quality of ambient receiving water, in-stream dilution potential, and recommendations or requirements from local regulatory authorities. Lastly, the guidance explains the use of dual controls when dilution water differs from organism culture water.

In today's action, EPA proposes to modify the WET method manuals by clarifying the definition of acceptable dilution waters and referencing the published guidance (USEPA, 2000a) for more information on selecting appropriate dilution waters. The proposed change would modify subsection 7.1 (Types of Dilution Water) of each of the method manuals (USEPA, 1993b; USEPA, 1994a; USEPA, 1994b). The specifics of the proposed method manual changes related to dilution waters are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d).

h. Pathogen Interference

WET testing is designed to measure the aggregate toxicity of an aqueous test sample. The presence of pathogens and/or parasites in the test sample, however, may confound this measurement of toxicity by causing sporadic mortality among test organisms. Today, EPA proposes to modify the Fathead Minnow (Pimephales promelas) Larval Survival and Growth Test to provide guidance on the adverse effects of pathogens and/or parasites on test performance (*i.e.*, pathogen and/or parasite test interference). EPA proposes procedures to control pathogen and/or parasite effects without compromising the capacity of the test to measure the toxicity of the test sample. The proposed method modifications are summarized below and detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d).

Pathogens that interfere with the test may come from the receiving water used for test dilutions, from the effluent, or from the receiving water that is used as intake water. Most receiving waters contain all the common fish pathogens, but these fish pathogens do not cause a problem in the stream. At times, however, the test conditions during

WET tests (e.g., 24 hour durations between sample renewals, beakers used for seven days without change, or uneaten brine shrimp) may promote bacterial growth. Some opportunistic bacteria take advantage of these conditions and flourish or ''bloom.'' The bacteria that bloom may be harmless or they may be fish pathogens. Blooms may even differ between replicates. In some cases, the presence of uncontrolled pathogen and/or parasite effects in the WET test may suggest the selection of a different test species.

Stakeholders have identified particular concerns with the adverse effect of pathogens on the performance of the Fathead Minnow Larval Survival and Growth Test. A typical indication that pathogen interference has occurred in a WET test is when test organisms exhibit ''sporadic mortality.'' This sporadic mortality phenomenon is characterized by an unexpected concentration-response relationship (i.e., effects that do not increase with increasing effluent concentration) and fathead minnow survival that varies greatly among replicates and among effluent dilutions. The observed sporadic mortality among replicates tends to occur in receiving water controls and in lower effluent concentrations (or occasionally in the full-strength effluent samples) on day three or day four of the Fathead Minnow Larval Survival and Growth Test. EPA does not have evidence of such sporadic mortality occurring in concurrently conducted chronic tests using the cladoceran, Ceriodaphnia dubia, or concurrent acute tests with the fathead minnow, C. dubia, or other acute test species.

When sporadic mortality is observed, often a fungal growth occurs directly on the fish, especially in the gill area. This growth interferes with measuring toxicity in the WET test. Biological test interference due to this type of fungal growth may occur during the toxicity test when effluents and water samples tested are derived from the receiving water (i.e., their source is a receiving water intake) or when the receiving water is used as the diluent. The fungal growth has been attributed to Saprolegnia sp. (Downey et al., 2000) which may be a secondary infection following infection from a known fish pathogen. Microbiological evaluations on receiving waters, the fish, and their food indicated the ubiquitous nature of pathogenic organisms (e.g., Flexibacter spp., Aeromonas hydrophila). Eradicating these types of organisms from the test through the decontamination of the fish and their food has not been practical (Geis et al., 2000a).

Data from the WET test must be reviewed carefully to ascertain if pathogens are suspected. The key indicators that pathogen interference has occurred are the presence of an unexpected concentration-response relationship (i.e., effects that do not increase with increasing effluent concentration), and organism survival that varies greatly among replicates and among effluent dilutions. The analyst should evaluate the test data to determine a cause for any unexpected concentration-response pattern and subsequently to determine the validity of calculated results (USEPA, 2000a). Normal, reversed, or bimodal concentration-response relationships are not considered indicators of test interference by pathogenic bacteria (USEPA, 2000a). The analyst also should evaluate the responses at each test concentration for unusually high mortality and/or for unevenness of mortalities among replicates. If the within-treatment coefficient of variation (CVs) for survival in an effluent treatment is greater than 40% and relatively low for control replicates in standard synthetic water, pathogen interference should be considered. Following data evaluations, additional testing would be required to ascertain that sporadic mortality observed in the WET test is due to interference by pathogenic bacteria. Parallel tests should be conducted using reconstituted water and receiving water as diluents with the effluent.

Before modifying any test procedures that will allow the analyst to account for pathogen interference, all available options within the flexibility of the method should be exhausted. Samples should be filtered through a 2–4 mm mesh opening (as described in Subsection 8.8.2 of the freshwater chronic method manual (USEPA, 1994a)) to remove indigenous organisms. Tests should be conducted using separate glassware, pipettes, and siphons for each concentration to minimize cross contaminating replicates of all treatments. The analyst also must keep laboratory equipment clean and dry when not in use. Use of reconstituted laboratory waters instead of receiving waters may eliminate the interference, and the use of reconstituted water would be preferable to invalid tests. However, for those instances when receiving water is required as the diluent or when the effluent and the subsequent dilutions exhibit the interference, EPA recommends modifying the test design to prevent the spread of the pathogen among the test chambers during the test.

Once pathogenic test interference has been confirmed by additional testing, the proposed modifications to the Fathead Minnow Larval Survival and Growth Test would recommend use of an altered test design to minimize the effects of the pathogenic interference. The use of fewer fish per test chamber and new test chambers daily has been the most effective technique for controlling the effects of pathogenic bacteria in the Fathead Minnow Larval Survival and Growth Test. Use of small plastic 30-ml cups containing two fish per cup showed the greatest improvement to the test method, removing the pathogenic effect 91% of the time (Geis et al., 2000a). For instance, use of 20 ml of test solution in a 1 ounce plastic cup and two fish per beaker significantly reduced the sporadic mortality not attributed to the effluent toxicity. The total number of fish tested is not reduced (i.e., 40 per treatment), and the fish are combined at the end of the test into the typical number of replicates so that data analysis following the test method manuals is unchanged.

When parallel testing has confirmed pathogen interference and the modifications to the test design for the number of fish per chamber does not reduce the pathogen interference, the regulatory authority may allow modifications of the effluent samples to remove or inactivate the pathogens. The analyst should apply TIE filtration steps (USEPA, 1991a; USEPA, 1992) in combination with various sterilization techniques listed below to ascertain and control adverse influences on tests caused by pathogens in the intake or receiving waters used for dilution. For some samples, one or more techniques such as irradiation with ultraviolet light, pasteurization, filtration (0.2 μ m pore size), and addition of antibiotics has been shown to improve survival and reduce variability among replicates effectively (SETAC, 1999). EPA cautions that some treatment methods that might control pathogens in the test, (e.g., ultraviolet light treatment or the addition of antibiotics (Downey et al., 2000)) may also improperly reduce or increase the toxicity of the sample. Filtration also may remove some toxicity in the sample as shown in toxicity identification evaluations (USEPA, 1991a; 1992; 1993a). The use of ultrafiltration on an effluent sample containing particulate matter to which process-induced metals have adsorbed may improperly remove a significant source of process-related toxicity. Also, chlorination and dechlorination may be

a treatment option where pathogenic bacteria are suspected as the sole source of toxicity in the ambient intake waters. However, when the analyst prepares samples using techniques of chlorination and/or dechlorination, potential exists for oxidation and reduction of other compounds (USEPA, 1991a; 1992). All toxicity tests conducted on modified samples (e.g., sterilized) must include an additional blank preparation (control) consisting of similarly treated reconsituted laboratory water (USEPA, 1991a; 1992).

Procedures to control the adverse influences of pathogens must not be used to reduce process-related sources of toxicity. With effluents and ambient waters, the pathogen(s) may mask the presence of a chemical that is, by itself, toxic. It is also possible that the pathogen infection is induced by some predisposing factor in the receiving water and would not occur without that factor. The need to evaluate both intake water and effluent samples to determine the cause of the pathogen or the source of pathogens is essential before applying any pathogen/parasite control technology and cannot be overemphasized. The analyst must evaluate whether the intake water is contributing the interference observed in the toxicity test of the final effluent.

The method modifications proposed today provide techniques to assess and control the effects of pathogens in the Fathead Minnow Larval Survival and Growth Test. Today's proposal does not address, however, the determination as to the conditions under which this control is appropriate for purposes of NPDES permit compliance. By today's proposal, EPA does not concede that the discharge of toxic biological agents to waters of the US is appropriate or authorized but merely that pathogens in test samples may confound measurement of whole effluent toxicity.

C. Ratification or Withdrawal of Methods

In a 1998 settlement agreement with Edison Electric Institute et al. (*Edison Electric Institute, et al.* v. *EPA*, No. 96–1062 & consolidated case (D.C. Cir.), Settlement Agreement, July 24, 1998), EPA agreed to conduct an interlaboratory variability study of 12 of the 17 approved WET test methods (the WET Variability Study). The 12 methods evaluated in the study (Table 1) represent a combination of acute and chronic test methods; freshwater and marine test methods; and invertebrate, fish, and algal species. EPA conducted the WET Variability Study in 1999 through 2000, and published preliminary results from the study in October 2000 (USEPA, 2000b; USEPA, 2000c). In 2001, EPA submitted the preliminary results of the study for expert peer review (USEPA, 2001c). The peer review comments and EPA's response to those comments are included in the record established for this rulemaking (see Addresses section of this rule). Based on peer review comments, EPA revised the preliminary study report to produce a final study report. In conjunction with today's action, EPA is publishing a final study report (USEPA, 2001a; USEPA, 2001b) that presents the final results of EPA's WET Variability Study. These results are discussed in section III.C.1 below.

The settlement agreement (*Edison Electric Institute, et al.* v. *EPA*, Settlement Agreement, July 24, 1998) also required that EPA propose to ratify or withdraw each of the 12 WET test methods evaluated in the WET Variability Study. Based on the results of the WET Variability Study, consideration of peer review comments, and an overall evaluation of the WET program, EPA proposes to ratify 11 of the methods evaluated in the WET Variability Study. EPA proposes to ratify nine of these methods, in an amended form, as described in Section III.B of this rule. EPA proposes to ratify two other methods (the Selenastrum capricornutum Growth Test and the Mysidopsis bahia Survival, Growth and Fecundity Test) with additional modifications (i.e., in addition those described in Section III.B of this rule) to improve the performance of the methods. EPA proposes to withdraw and propose a new Holmesimysis costata Acute Test method. The Holmesimysis costata Acute Test method was promulgated and tested in the WET Variability Study using acute test procedures designed for the Mysidopsis bahia Acute Test (except at a temperature of 12°C, instead of 20°C or 25°C; and a salinity of 32–34‰, instead of 5–30‰). Results of the WET Variability Study revealed that acute test procedures designed for Mysidopsis bahia were insufficient for successful test conduct using Holmesimysis costata. For this reason, EPA proposes to withdraw Holmesimysis costata as an acceptable species for use in the Mysidopsis bahia Acute Test method and to propose it as an acute toxicity test method designed specifically for Holmesimysis costata. Sections 2–7 below discuss the proposed ratification and/or withdrawal of each method evaluated in the WET Variability Study.

TABLE 1.—WHOLE EFFLUENT TOXICITY TEST METHODS INCLUDED IN EPA'S WET VARIABILITY STUDY

Test method	Common test method name	Test method No. [a]
Cladoceran, Ceriodaphnia dubia, Acute Test	Ceriodaphnia— dubia Acute Test	
Cladoceran, Ceriodaphnia dubia, Survival and Reproduction Test.	Ceriodaphnia dubia Survival and Reproduction Test	1002.0
Fathead Minnow, Pimephales promelas, Acute Test	Fathead Minnow Acute Test	
Fathead Minnow, Pimephales promelas, Larval Survival and Growth Test.	Fathead Minnow Larval Survival and Growth Test	1000.0
Green Alga, Selenastrum capricornutum, Growth Test	Selenastrum capricornutum Growth Test	1003.0
Mysid, Mysidopsis bahia, Survival, Growth, and Fecundity Test	Mysidopsis bahia Survival, Growth, and Fecundity Test	1007.0
Sheepshead Minnow, Cyprinodon variegatus, Acute Test	Sheepshead Minnow Acute Test	
Sheepshead Minnow, Cyprinodon variegatus, Larval Survival and Growth Test.	Sheepshead Minnow Larval Survival and Growth Test	1004.0
Inland Silverside, Menidia beryllina, Acute Test	Inland Silverside Acute Test	
Inland Silverside, Menidia beryllina, Larval Survival and Growth Test.	Inland Silverside Larval Survival and Growth Test	1006.0
Red Macroalga, Champia parvula, Reproduction Test [b]	Champia parvula Reproduction Test	1009.0
Mysid, Holmesimysis costata, Acute Test [b c]	Holmesimysis costata Acute Test	

[a] Test method numbers were not designated for acute test methods in USEPA, 1993b.
[b] Due to insufficient laboratory support, interlaboratory data were not obtained for this method.
[c] The EPA-approved acute test with Holmesimysis costata was performed using the test conditions for the Mysidopsis bahia Acute Test method (except at a temperature of 12°C, instead of 20°C or 25°C; and a salinity of 32–34‰, instead of 5–30‰).

In ratifying WET test methods, EPA reaffirms the conclusion expressed in the 1995 WET final rule (60 FR 53529; October 16, 1995), that these methods are applicable for use in NPDES permits. In the 1995 WET final rule, this conclusion was based on the well-established use of the methods, the existence of extensive guidance on quality assurance and routine quality control activities, and validation data from a number of studies conducted by EPA, State programs, and universities. Since promulgation of the methods, this basis for approval has been strengthened by more widespread use of the methods, additional guidance on quality assurance and quality control issues (USEPA, 2000a; USEPA, 2000d), and the WET Variability Study to confirm method performance data from original validation studies (USEPA, 2001a; USEPA, 2001b).

1. WET Variability Study

EPA designed the WET Variability Study to characterize interlaboratory variability, the rate of successful test completion, and the rate of ''false positive'' incidence (i.e., the measurement of toxicity in non-toxic blank samples) for the 12 test methods listed in Table 1. For two of these methods (the Champia parvula Reproduction Test and the Holmesimysis costata Acute Test), EPA was unable to obtain interlaboratory data due to laboratory unavailability (i.e., EPA was unable to contract with a minimum of six laboratories qualified and willing to conduct these test methods within the time frame of the study). Intralaboratory data were obtained for the Champia parvula Reproduction Test, but no valid intralaboratory or interlaboratory data were obtained for the Holmesimysis costata acute test. For each of the remaining 10 methods, 7 to 35 laboratories participated in multi-laboratory testing of 3 or 4 ''blind'' test samples. Laboratories received some combination of the following test sample types: reagent water (or ''blank''); reference toxicant; municipal or industrial effluent; and receiving water. Participant laboratories were required to analyze each blind test sample according to the promulgated WET test method manuals and specific instructions in participant laboratory standard operating procedures developed for the study (appendix B, USEPA, 2001b). In total, the study generated interlaboratory precision data from testing more than 700 blind samples among 55 participant laboratories. EPA had not previously conducted a study of this magnitude with these objectives in this time frame.

The results of the WET Variability Study (Table 2) supported the conclusions of the 1995 WET final rule and confirmed the acceptability of the WET test methods for use in NPDES permits, except as noted below in sections 2 through 7. The analysis of successful test completion rates revealed that most WET test methods could be consistently and reliably performed by qualified testing laboratories. For the purposes of the study, EPA defined successful test completion rates to be the percentage of initiated and properly terminated tests that met the test acceptability criteria as specified in the WET method manuals. Successful test completion rates were above 90% for 8 of the 10 methods evaluated during interlaboratory testing. Only the Ceriodaphnia dubia Survival and Reproduction Test method (see section 2 below) and the Selenastrum capricornutum Growth Test method (see section 5 below) produced successful test completion rates less than 90%.

The analysis of false positive rates revealed that the WET test methodologies, including applicable guidance on reviewing WET test results (USEPA, 2000a), effectively control the incidence of falsely identifying toxicity in non-toxic ''blank'' samples. False positive rates were defined as the percentage of valid tests conducted on blank samples that indicated toxicity by producing LC50 (median lethal concentration), NOEC (no observed effect concentration), or IC25 (25% inhibition concentration) values of less than 100% sample. False positive results were reported for three test methods, and the rates of false positives were below the theoretical false positive rate of 5% (based on the recommended 0.05 alpha level for hypothesis testing) for all but the Selenastrum capricornutum Growth Test conducted without EDTA.

The analysis of interlaboratory precision data revealed that the WET test methods are sufficiently precise for use in NPDES permits. Interlaboratory coefficients of variation (CVs) calculated in the WET Variability Study ranged from 10.5% to 58.5% (Table 2). This observed range of interlaboratory variability is consistent with the range of variability reported for chemical methods approved at 40 CFR part 136 (USEPA, 1991b). For chemical methods measuring metals at the low end of the detection range, interlaboratory CVs range from 18% to 129%, with a median CV of 45%. Interlaboratory CVs for chemical methods for organic analyses range from greater than 12% to 91%, and interlaboratory CVs for nonmetal inorganic analyses range from 4.6% to 70%.

TABLE 2.—SUMMARY OF TEST RESULTS FROM EPA'S WET VARIABILITY STUDY

Test method	Successful test completion rate (%)	False positive rate[a] (%)	Interlaboratory precision (% CV)[b]
Ceriodaphnia dubia Acute Test	95.2	0.00	29.0
Ceriodaphnia dubia Survival and Reproduction Test	82.0	3.70	35.0
Fathead Minnow Acute Test	100	0.00	20.0
Fathead Minnow Larval Survival and Growth Test	98.0	4.35	20.9
Selenastrum capricornutum Growth Test (with EDTA)[c]	63.6	0.00	34.3
Selenastrum capricornutum Growth Test (without EDTA)[c]	65.9	33.3	58.5
Mysidopsis bahia Survival, Growth, and Fecundity Test	[d] 97.7	0.00	41.3
Sheepshead Minnow Acute Test	100	0.00	26.0
Sheepshead Minnow Larval Survival and Growth Test	100	0.00	10.5
Inland Silverside Acute Test	94.4	0.00	38.5
Inland Silverside Larval Survival and Growth Test	100	0.00	43.8
Champia parvula Reproduction Test[e]	ND	ND	[f] ND
Holmesimysis costata Acute[e]	ND	ND	ND

[a] False positive rates reported for each method represent the higher of false positive rates observed for hypothesis testing or point estimate endpoints.

[b] Coefficients of variation (CVs) reported for each method represent the CV of LC50 values for acute test methods and IC25 values for chronic test methods. CVs reported are based on total interlaboratory variability (including within-laboratory and between-laboratory components of variability) and averaged across sample types.

[c] The Selenastrum capricornutum Growth Test method was conducted with and without ethylenediaminetetraacetic acid (EDTA) as a component of the nutrients added to test and control treatments. Due to improved test performance with the addition of EDTA, EPA is proposing to recommend the addition of EDTA in the Selenastrum capricornutum Growth Test.

[d] Successful test completion for the optional fecundity endpoint was 50%.

[e] ND = not determined. Due to insufficient laboratory support, interlaboratory data were not obtained for the Champia parvula Reproduction Test method and the Holmesimysis costata Acute Test method.

[f] While interlaboratory test data were not obtained for the Champia parvula Reproduction Test method, intralaboratory data was obtained from the referee laboratory. Intralaboratory CVs were 27.6%, 49.7%, and 50.0% for reference toxicant, receiving water, and effluent sample types, respectively.

2. Ceriodaphnia dubia Acute Test, Ceriodaphnia dubia Survival and Reproduction Test, Fathead Minnow Acute Test, Fathead Minnow Larval Survival and Growth Test, Sheepshead Minnow Acute Test, Sheepshead Minnow Larval Survival and Growth Test, and Inland Silverside Acute Test

Today, EPA proposes to ratify its previous rulemaking standardizing the following WET test methods: Ceriodaphnia dubia Acute Test, Ceriodaphnia dubia Survival and Reproduction Test, Fathead Minnow Acute Test, Fathead Minnow Larval Survival and Growth Test, Sheepshead Minnow Acute Test, Sheepshead Minnow Larval Survival and Growth Test, and the Inland Silverside Acute Test. At the time of method promulgation, interlaboratory precision data were available for each of these test methods. Based on these precision data, EPA concluded that toxicity tests are no more variable than chemical analytical methods in 40 CFR part 136, and that toxicity tests provide reliable indicators of whole effluent toxicity. At that time, EPA also anticipated that laboratory performance would improve with use of the methods over time. Results from the WET Variability Study not only confirmed the level of precision previously cited for these methods, but indicated that the methods currently exhibit even lower variability than estimated at the time of method promulgation (60 FR 53529; October 16, 1995). Such data also confirm EPA's assumptions regarding the likely improvement in laboratory performance over time. The average of interlaboratory CVs reported (in the WET method manuals and/or the Technical Support Document for Water Quality-based Toxics Control (USEPA, 1991b)) for each method at the time of promulgation ranged from 34% to 44.2% (Table 3). Interlaboratory CVs reported for these methods in the WET Variability Study ranged from 10.5% to 38.5%. For each method, interlaboratory variability measured in the WET Variability Study was lower than that cited at the time of promulgation (Table 3). Interlaboratory CVs measured in the WET Variability Study were 4% to 34% lower than average values cited in the method manuals for the same methods. On average, interlaboratory variability measured in the WET Variability Study was 15% lower than originally reported at the time of method promulgation. These results strongly confirm EPA's conclusions that these methods provide sufficient precision for use in NPDES permits.

TABLE 3.—COMPARISON OF INTERLABORATORY METHOD PRECISION AT THE TIME OF METHOD PROMULGATION AND MEASURED IN EPA'S WET VARIABILITY STUDY

Method	Interlaboratory precision estimates (%CV) at time of method promulgation [a]	Updated interlaboratory precision estimates (%CV) [b]	Improved precision?
Ceriodaphnia dubia Acute Test	44.2	29.0	Yes
Ceriodaphnia dubia Survival and Reproduction Test	42	35.0	Yes
Fathead Minnow Acute Test	35	20.0	Yes
Fathead Minnow Larval Survival and Growth Test	34	20.9	Yes
Selenastrum capricornutum Growth Test	[c] NR	[d] 34.3	NA [e]
Mysidopsis bahia Survival, Growth, and Fecundity Test	[c] NR	41.3	NA [e]
Sheepshead Minnow Acute Test	42	26.0	Yes
Sheepshead Minnow Larval Survival and Growth Test	44.2	10.5	Yes
Inland Silverside Acute Test	42.2	38.5	Yes
Inland Silverside Larval Survival and Growth Test	[c] NR	43.8	NA [e]
Champia parvula Reproduction Test	[c] NR	[c] NR	NA [f]
Holmesimysis costata Acute Test	[c] NR	[c] NR	NA [f]

[a] Precision estimates represent an average of all interlaboratory CVs reported for a given method in the WET method manuals (USEPA, 1993b; USEPA, 1994a; USEPA, 1994b) and/or the Technical Support Document for Water Quality-based Toxics Control (USEPA, 1991b). The number of significant figures displayed differs because these data are obtained from various sources, which reported results to either two or three significant figures.

[b] Precision estimates were obtained from EPA's WET Variability Study conducted in 1999–2000 (USEPA, 2001a).

[c] NR = None reported.

[d] Precision estimates for the Selenastrum capricornutum Growth Test method are based on conduct of the test with Ethylenediaminetetraacetic acid (EDTA) as a component of the nutrients added to test and control treatments.

[e] NA = not applicable. Improved precision could not be determined because estimates of interlaboratory precision were not reported at the time of method promulgation.

[f] NA = not applicable. Improved precision could not be determined because estimates of interlaboratory precision were not reported at the time of method promulgation or determined in the WET Variability Study.

Other test performance characteristics measured in the WET Variability Study also confirmed EPA's conclusions that these methods are applicable for use in NDPES permits. False positive rates for these methods were below the theoretical false positive rate of 5% (based on the recommended 0.05 alpha level for hypothesis testing), indicating that the methods do not routinely indicate toxicity in non-toxic samples. Successful test completion rates for these methods were also at acceptable levels (82.0% to 100%), with 6 of these 7 methods exhibiting successful test completion rates above 90%. While the 82.0% successful test completion rate for the Ceriodaphnia dubia Survival and Reproduction Test method was lower than for most other methods evaluated in the WET Variability Study, this rate is consistent with successful test completion rate information available for this method at the time of promulgation. The 82.0% successful test completion rate observed in the WET Variability Study is consistent with the 80% rate reported for this method in a 1989 interlaboratory study (USEPA, 1991b) and represents tremendous improvement from a 1987 interlaboratory study that reported a successful test completion rate of 56% (DeGraeve et al., 1992).

The overall successful test completion rate observed for the Ceriodaphnia dubia Survival and Reproduction Test method in the WET Variability Study was also suppressed by poor performance in a subset of laboratories. Only 10 of the 34 participant laboratories performed invalid tests, but 8 of these laboratories performed invalid tests on 50% or more of the samples tested. The low rate of successful test completion in these 8 laboratories may have been influenced by the study's strict testing schedule, which required each test to be conducted on a given day and all tests to be conducted within a 15-day time period. When invalid tests conducted in a given laboratory were due to marginal or poor health of the test organism cultures, then it was logical that the laboratory would fail a high percentage of tests during this study because culture health was unlikely to fully recover within 15 days. EPA believes that successful test completion rates for this method improve when testing laboratories are allowed flexibility in the timing of sample collection and can avoid initiating tests during periods of marginal to poor culture health.

3. Inland Silverside Larval Survival and Growth Test

EPA proposes to ratify the Inland Silverside Larval Survival and Growth Test method. Similarly to the methods listed in section 2 above, the Inland Silverside Larval Survival and Growth Test method exhibited acceptable successful test completion rates and false positive rates (Table 2). No false positives were observed for the method in the WET Variability Study, and the successful test completion rate was 100%. Unlike the methods listed in section 2 above, however, EPA cannot compare interlaboratory precision data cited at the time of method promulgation and data reported from the WET Variability Study because EPA did not rely on interlaboratory precision data for this method at the time of promulgation (Table 3). Instead, EPA relied on intralaboratory data for the method. The Agency's previous experience with method variability evaluations supported EPA's assumption that, though WET tests typically have lower CVs (higher precision) in intralaboratory studies than in interlaboratory studies, acceptable ranges of precision demonstrated in intralaboratory studies tend to subsequently be confirmed by interlaboratory studies.

In the WET Variability Study, an interlaboratory CV of 43.8% was reported for the Inland Silverside Larval Survival and Growth Test method. While interlaboratory variability for this method is higher than for other methods reported in the study, it is within the range of interlaboratory CVs (34% to 44.2%) cited for other WET methods at the time of promulgation (Table 3). It is also within the range of interlaboratory CVs reported for chemical methods approved at 40 CFR part 136 (USEPA, 1991b). Therefore, EPA reaffirms the conclusions that this method is no more variable than chemical analytical methods approved at 40 CFR part 136 and that this method is applicable for use in NPDES permits (60 FR 53529; October 16, 1995).

4. Champia parvula Reproduction Test

In the WET Variability Study, insufficient participant laboratory support was available to conduct interlaboratory testing of the Champia parvula Reproduction Test method within the time frame of the study. In addition to the referee laboratory, only one laboratory submitted the necessary quality control information to prequalify for participation in the interlaboratory study of this method. Due to insufficient laboratory support and failure to meet the study's data quality objective of a minimum of six laboratories, EPA canceled interlaboratory testing of the Champia parvula Reproduction Test method. Though interlaboratory testing was canceled, the referee laboratory conducted single-laboratory testing of the Champia parvula Reproduction Test method. In the 1995 WET rule, EPA addressed the issue of limited laboratory availability for conduct of the Champia parvula Reproduction Test method. EPA predicted that as the requirements for use of this organism in the NPDES permit program increased, the resulting increase in market demand would result in an increase in the number of laboratories capable of performing this test. However, the number of permits requiring the Champia parvula Reproduction Test method has remained low (DeGraeve et al., 1998), so few laboratories have invested in developing Champia parvula cultures or standard operating procedures for conduct of the method.

EPA believes that the limited use of the Champia parvula Reproduction Test method does not reduce the value of the test method. The Champia parvula Reproduction Test represents the only approved test method for a marine plant species. Maintaining an approved test method for this functional group (marine/plant/chronic test) is important for proper implementation of the WET program. The Technical Support Document for Water Quality-Based Toxics Control (USEPA, 1991b) recommends the use of at least three marine species representing three different phyla (e.g., a fish, an invertebrate, and a plant) for testing the toxicity of effluents discharged to estuarine and marine environments.

The limited use of the Champia parvula Reproduction Test method also does not affect the performance of the test method in laboratories that are qualified to conduct the test. While the WET Variability Study did not provide interlaboratory precision data for the Champia parvula Reproduction Test method, referee laboratory data confirmed the estimates of intralaboratory precision cited at the time of method promulgation (USEPA, 1994b). Intralaboratory CVs cited in the method manual for Champia parvula Reproduction Tests conducted using copper sulfate and sodium dodecyl sulfate averaged 63%. In preliminary testing for the WET Variability Study, the referee laboratory achieved an intralaboratory CV of 27.6% for 3 reference toxicant tests using copper sulfate, and an intralaboratory CV of 49.7% for 4 tests of spiked receiving water. Only one pair of replicate

effluent samples was tested using the Champia parvula Reproduction Test method. Tests of these duplicate effluent samples yielded a CV of 50.0%. All other testing of the effluent sample type was conducted on samples from different sampling dates, so additional precision measurements were not obtained for this sample type. In addition to intralaboratory test data from the WET Variability Study, EPA's Variability Guidance Document (USEPA, 2000d) reported an intralaboratory CV of 59% for the Champia parvula Reproduction Test based on 23 reference toxicant tests conducted in 2 laboratories. Intralaboratory data from both the WET Variability Study and the Variability Guidance Document support the intralaboratory precision data previously cited in the method manual (USEPA, 1994b) for the Champia parvula Reproduction Test method. Based on the confirmation of intralaboratory precision data cited at the time of method promulgation, EPA proposes to ratify the Champia parvula Reproduction Test method.

5. Mysidopsis bahia Survival, Growth, and Fecundity Test

The Mysidopsis bahia Survival, Growth, and Fecundity Test uses three test endpoints to evaluate toxicity: survival, growth, and fecundity (or reproduction). The survival and growth endpoints are required endpoints and specific test acceptability criteria for these endpoints must be met (80% survival and mean weight of 0.20 mg in the control treatment) to produce a valid test. The fecundity endpoint is optional and may be used if the test acceptability criterion for fecundity (egg production by 50% or more of control females) is met. Failure to meet the test acceptability criterion for fecundity does not invalidate a test but means that the fecundity endpoint may not be used in calculating test results. In the WET Variability Study, 97.7% of tests met the required test acceptability criteria for survival and growth, but only 50% of tests met the test acceptability criterion for fecundity. While failure to generate fecundity data does not invalidate a test, it may affect the sensitivity of the measurement. Researchers have shown that the fecundity endpoint is often the most sensitive endpoint and that the test most effectively estimates the chronic toxicity of effluents when all three endpoints are used (Lussier et al., 1999).

EPA proposes to ratify the Mysidopsis bahia Survival, Growth, and Fecundity Test method with an additional modification to improve the performance of the method. EPA proposes to add guidance to improve the success of obtaining fecundity data. The specifics of the proposed method manual changes to implement this modification are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d). The additional guidance would recommend optimizing temperature, feeding, and organism densities during the seven-day pre-test holding period and during the testing period. These factors are critical to the success of the fecundity endpoint, because they control the rate of mysid development and maturation. While these factors are typically controlled during the testing period, equal attention should be paid to these factors during the pre-test holding period to ensure maximum mysid development. Lussier et al. (1999) found that by increasing holding temperature and test temperature from 26°C ± 1°C to 26°C–27°C and maintaining holding densities at ≤10 organisms/L, the percentage of tests meeting the test acceptability criteria for fecundity increased from 60% to 97%.

With the exception of the low successful test completion rate for the fecundity endpoint, other test method performance measures evaluated in the WET Variability Study for the Mysidopsis bahia Survival, Growth, and Fecundity Test were acceptable. No false positives were observed for the method, the successful test completion rate was 97.7% for the survival and growth endpoints, and interlaboratory variability (%CV) was 41.3% for the growth IC25 endpoint (Table 2). No interlaboratory precision data were reported for the Mysidopsis bahia Survival, Growth, and Fecundity Test method at the time of method promulgation; therefore interlaboratory precision data from the WET Variability Study could not be compared to previously cited values for this method (Table 3). While interlaboratory variability for this method is higher than for most other methods reported in the study, it is within the range of interlaboratory CVs (34% to 44.2%) cited for other WET methods at the time of promulgation (Table 3). It is also within the range of interlaboratory CVs reported for chemical methods approved at 40 CFR part 136 (USEPA, 1991b). Therefore, EPA reaffirms the conclusions that this method is applicable for use in NPDES permits (60 FR 53529; October 16, 1995).

6. Selenastrum capricornutum Growth Test

In the WET Variability Study, the Selenastrum capricornutum Growth Test method was conducted with and without the addition of ethylenediaminetetraacetic acid (EDTA). In the approved Selenastrum capricornutum Growth Test method, EDTA is an optional component of the nutrient mixture that is added to test and control treatments. While algal growth is enhanced by the addition of EDTA, the method recommends excluding EDTA from the nutrient mixture when testing samples that may contain metals. EDTA is a chelating agent that effectively binds metals, thereby potentially reducing the toxic effect of metals present in the analyzed sample. Because the presence of metals in WET samples is often unknown at the time of testing, laboratories often conduct the Selenastrum capricornutum Growth Test method without the addition of EDTA.

Results from the WET Variability Study revealed that Selenastrum capricornutum Growth Test method performance was substantially better when EDTA was added to the nutrient mixture than when it was excluded. No false positives were observed when EDTA was used, but 2 of the 6 blank samples (33.3%) analyzed without EDTA produced false positive results (USEPA, 2001a). Interlaboratory variability of the Selenastrum capricornutum Growth Test method was also much lower with EDTA (34.3%) than without EDTA (58.5%). When conducted with EDTA, the Selenastrum capricornutum Growth Test method exhibited interlaboratory precision similar to other chronic methods evaluated in the WET Variability Study. No interlaboratory precision data were reported for the Selenastrum capricornutum Growth Test method at the time of method promulgation, so interlaboratory precision data from the WET Variability Study could not be compared to previously cited values for this method. When compared to interlaboratory precision cited for other WET test methods at the time of promulgation, the Selenastrum capricornutum Growth Test method (conducted with EDTA) was well within the range (Table 3).

The successful test completion rate of the Selenastrum capricornutum Growth Test method was low for tests conducted with and without EDTA (63.6% and 65.9%, respectively), however, the low successful test completion rates were in part due to laboratory inexperience in using both the with and without-EDTA techniques. Two laboratories that cultured organisms without EDTA and generally conducted tests without EDTA showed poor successful test completion rates

(failing eight of eight tests) when EDTA was used. These laboratories failed all eight tests conducted with EDTA and passed all but one test (seven) without EDTA. When these two laboratories were removed from the analysis, the successful test completion rate for tests conducted with EDTA increased to 77.8%.

Based on WET Variability Study results, EPA proposes to ratify the Selenastrum capricornutum Growth Test method with a modification to recommend the addition of EDTA to the nutrient mixture added to control and test treatments. The specifics of the proposed method manual changes to implement this modification are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d). This method modification will improve overall test method performance by reducing false positives and increasing interlaboratory precision. EPA also believes that recommending the use of EDTA will improve successful test completion rates for the method as laboratories consistently culture and test with EDTA. In addition to improving test method performance, the method modification to recommend the use of EDTA is consistent with other established Selenastrum capricornutum toxicity testing protocols. Both ASTM (1992) and Environment Canada (1992) methods for toxicity testing using Selenastrum capricornutum recommend the use of EDTA.

EPA recognizes that the proposed modification to the Selenastrum capricornutum Growth Test method may cause the method to underestimate the toxicity of metals. EPA believes, however, that this modification is necessary to ensure adequate performance of the Selenastrum capricornutum Growth Test method. EPA also believes that under appropriate implementation of the WET program, this modification will not significantly reduce environmental protection. The Technical Support Document for Water Quality-based Toxics Control (USEPA, 1991b) recommends that permitting decisions be based on testing using a minimum of three species representing three different phyla (e.g., a fish, invertebrate, and plant). This recommendation is based on the recognition that species differ in their sensitivity to toxicants. By using a battery of species to test the toxicity of an effluent, permitting decisions can be made to protect the most sensitive species tested. Using this approach, the addition of EDTA in the Selenastrum capricornutum Growth Test method would affect environmental protection only when Selenastrum capricornutum is determined to be the most sensitive species and when the effluent contains metals whose toxicity is reduced by the addition of EDTA. This situation should be infrequent, and result in only minor decreases in test sensitivity. Geis et al. (2000b) showed that Ceriodaphnia dubia was more sensitive than Selenastrum capricornutum to three of five metals tested (copper, nickel, and cadmium), and Selenastrum capricornutum was only slightly more sensitive than Ceriodaphnia dubia to zinc and lead.

7. Holmesimysis costata Acute Test

Holmesimysis costata is a Pacific coast mysid species that was elevated from the supplemental species list in the previous acute method manual and added to the list of approved acute toxicity test species at the time of the WET final rule (60 FR 53529; October 16, 1995). This species was added in response to comments that the recommended test species in the acute method manual did not include any invertebrate species indigenous to Pacific coastal waters. One commenter also submitted data showing that Holmesimysis costata was at least as sensitive to toxicants as the recommended acute toxicity test species. Based on these comments, the acute method manual was modified to add a footnote listing Holmesimysis costata as an acceptable species for use with the Mysidopsis bahia Acute Test procedures. The footnote to the table of test conditions for the Mysidopsis bahia Acute Test states that ''Holmesimysis costata can be used with the test conditions in this table, except at a temperature of 12°C, instead of 20°C or 25°C, and a salinity of 32‰–34‰, instead of 5‰–30‰, where it is the required test organism in discharge permits.'' Because the acute method manual was incorporated by reference in the final rule, the incorporation of this footnote established Holmesimysis costata as an approved acute toxicity test species. The WET final rule (60 FR 53529; October 16, 1995) clarified this by stating that ''EPA accepts the use of * * * Holmesimysis costata in place of Mysidopsis bahia, with the same test conditions (except at a temperature of 12°C, instead of 20°C or 25°C, and a salinity of 32‰–34‰, instead of 5‰–30‰).''

EPA decided to evaluate the Holmesimysis costata Acute Test method in the WET Variability Study according to the protocol as the method was promulgated, i.e., using the test conditions for Mysidopsis bahia (except at a temperature of 12°C, instead of 20°C or 25°C, and a salinity of 32‰ to 34‰, instead of 5‰ to 30‰). Sufficient participant laboratory support, however, was not available to conduct interlaboratory testing of the Holmesimysis costata Acute Test method within the time frame of the study. In addition to the referee laboratory, only two laboratories submitted the necessary quality control information to prequalify for participation in the interlaboratory study of this method. This method is required only in NPDES permits issued in California, so few laboratories currently conduct this test routinely. Due to insufficient laboratory support and failure to meet the study's data quality objective of a minimum of six laboratories, EPA canceled interlaboratory testing of the Holmesimysis costata Acute Test method. Though interlaboratory testing was canceled, the referee laboratory did attempt to conduct single-laboratory testing of the Holmesimysis costata Acute Test.

During the WET Variability Study, the referee laboratory initiated five Holmesimysis costata acute tests. The referee laboratory did not initiate additional tests due to difficulties in obtaining test organisms. Juvenile Holmesimysis costata used for testing are generally obtained from field-collected gravid females. The referee laboratory was unable to collect sufficient numbers of gravid females during most of the time frame for the WET Variability Study (September 1999 through April 2000). Of the five tests that were initiated, none successfully met test acceptability criteria and required test conditions. Three tests failed to meet test acceptability criteria for control survival, and two tests failed to meet requirements for the age of test organisms (all within 24 hours). These test failures demonstrated the inadequacy of Mysidopsis bahia Acute Test procedures for use in conducting acute tests with Holmesimysis costata. EPA has since concluded that modified test procedures are needed for successful conduct of the Holmesimysis costata Acute Test. These modifications include more detailed organism collection and holding procedures, specific dilution water requirements, revised temperature requirements, and less restrictive test organism age requirements.

Today, EPA proposes to withdraw Holmesimysis costata as an acceptable species for use in the Mysidopsis bahia Acute Test method and proposes a separate Holmesimysis costata Acute Test method. This proposal would add

to the acute method manual a table of test conditions specific to Holmesimysis costata and information in Appendix A.3 on the morphology, taxonomy, collection, holding, culturing, feeding, and testing of Holmesimysis costata. The specifics of the proposed Holmesimysis costata Acute Test method and the method manual changes necessary to implement the addition of this method are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d).

The proposed Holmesimysis costata Acute Test method is based on method development data from the California Water Resources Control Board's Marine Bioassay Project (State Water Resources Control Board, 1990) and from peer-reviewed literature (Martin et al., 1989; Hunt et al., 1997). These data show that given the appropriate test procedures and test conditions, the Holmesimysis costata Acute Test can produce reliable and sensitive toxicity results with adequate precision. Single-laboratory testing of zinc with the Holmesimysis costata Acute Test method yielded intralaboratory precision (CVs) of 19% and 23% in 48-h and 96-h acute tests, respectively. Multi-laboratory testing of zinc with the Holmesimysis costata Acute Test method yielded interlaboratory precision (CVs) of 24% and 1% in 2 separate trials.

In addition to the proposed Holmesimysis costata Acute Test method, EPA requests comment on the applicability of similar methods published by voluntary consensus standard bodies. A mysid toxicity test method with specific test procedures for Holmesimysis costata is published in Standard Methods for the Examination of Water and Wastewater (APHA et al., 1998), and a West Coast mysid toxicity test method is published by the American Society for Testing and Materials (ASTM, 1993). EPA does not believe that these methods from voluntary consensus standard bodies provide the detailed requirements necessary for routine use in compliance monitoring, so EPA is proposing a new Holmesimysis costata Acute Test method for inclusion in EPA's acute method manual (USEPA, 1993b). EPA invites comment, however, on whether to approve the other organizations' testing procedures, including comment on their use for compliance monitoring.

IV. Regulatory Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action.'' Therefore, this action is not subject to OMB review.

B. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed, under section 203 of the UMRA, a small government agency plan. The plan must provide for the notification of potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that today's proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule proposes revisions to WET test methods that are currently approved for use in NPDES permits and certification of Federal licenses under the CWA. The revisions are minor and the cost to implement them is minimal. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. It would not significantly affect them because any incremental costs incurred are minimal, and it would not uniquely affect them because it would affect entities of all sizes required to test for whole effluent toxicity by a regulatory authority the same. Further, whole effluent toxicity monitoring by small entities is generally expected to be less frequent than such monitoring by larger entities. Therefore, today's rule is not subject to the requirements of section 203 of UMRA.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other stature unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) a small business as defined by the U.S. Small Business Administration definitions at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less

than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Today's rule proposes revisions to WET test methods that are currently approved for use in NPDES permits and certification of Federal licenses under the CWA. The revisions are minor and the cost to implement them is minimal. The proposed revisions are intended to improve the performance of WET tests, and thus increase confidence in the reliability of the results obtained using the test methods. EPA estimates that any incremental costs associated with the proposed revisions would be alleviated by a potential reduction in retesting that may result from improved test performance and increased confidence in the reliability of testing results. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* It does not contain any information, collection, reporting, or record keeping requirements.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes 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; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

E. National Technology Transfer and Advancement Act

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

Today's action would revise existing EPA WET test methods and add a new Holmesimysis costata Acute Test method. For the methods that EPA is proposing to revise, the Agency did not conduct a search to identify potentially applicable voluntary consensus standards, because the revisions EPA proposes today would merely incorporate more specificity and detail into already approved EPA test methods. EPA invites comment, however, on the extent to which voluntary consensus standard organizations' methods would be consistent with the EPA methods for which revisions are proposed today. For the new Holmesimysis costata Acute Test method, the Agency reviewed applicable voluntary consensus standards and identified two mysid methods (ASTM, 1993; APHA et al., 1998) that provide specific test procedures for use with Holmesimysis costata. While EPA requests comment on the applicability of these voluntary consensus standards, the Agency does not believe that these methods would provide the additional detailed requirements EPA proposes today. For this reason, EPA proposes a new EPA Holmesimysis costata Acute Test method. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

F. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, nor does it concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

G. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as defined in Executive Order 13175. Today's proposed rule would revise WET test methods that are currently approved for use in NPDES permits and certification of Federal licenses under the CWA. The revisions are minor and the cost to implement them is minimal. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits comment on this proposed rule from tribal officials.

H. Executive Order 13132—Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255; August 10, 1999), requires EPA to develop an

accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. 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. Today's rule proposes revisions to WET test methods that are currently approved for use in NPDES permits and certification of Federal licenses under the CWA. The revisions are minor and the cost to implement them is minimal. Thus, Executive Order 13132 does not apply to this rule. In the sprit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

I. Executive Order 13211—Energy Effects

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

J. Plain Language Directive

Executive Order 12866 requires each agency to write all rules in plain language. We invite your comments on how to make this proposed rule easier to understand. For example, have we organized the material to suit your needs? Are the requirements in the rule clearly stated? Does the rule contain technical language or jargon that isn't clear? Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? Would more (but shorter) sections be better? Could we improve clarity by adding tables, lists, or diagrams? What else could we do to make the rule easier to understand?

V. Request for Comments and Available Data

EPA requests public comments on this proposed rule. EPA invites comment on the technical merit, applicability, and implementation of the specific WET test method changes included in this proposal. EPA also invites comments on the ratification of the methods listed. EPA encourages commenters to provide copies of supporting data and/or references cited in comments.

EPA recognizes that stakeholders continue to have concerns over a variety of issues related to implementation of whole effluent toxicity controls through NPDES permits. Today's notice, however, invites comments only on the conduct of WET test methods and not on the implementation of WET control strategies through NPDES permits. EPA is interested in comments on the extent to which some aspect(s) of the technical components of the method revisions proposed today may affect implementation of WET control strategies. For example, today's notice solicits comments related to the proposed application of percent minimum significant difference (PMSD) approaches to evaluate the precision of WET test results (see Section B below). Application of the PMSD approach is intended to control the within-test variability in WET methods. Nationwide, however, NPDES agencies have implemented other concepts, such as limits on CVs to control for within-test variability rather than the PMSD concepts about which EPA solicits comment today. It is not EPA's objective to create conflict with the current implementation of WET control strategies that do not presently apply the PMSD concepts, but instead to enhance ongoing implementation efforts by providing an additional review step for WET test results to promote WET test precision. To the extent that application of the PMSD concepts could result in conflicts with the current and ongoing WET implementation, EPA invites comments on how to ameliorate any such adverse effects on WET implementation.

A. pH Drift

In particular, EPA requests comments and available data to support or refute test method changes related to pH drift (see Section III.B.3.b). EPA requests that commenters provide any data that show the value of proposed pH control measures in situations where ammonia or other pH-dependent toxicants are not present. EPA specifically requests chronic toxicity data from parallel controlled-pH and uncontrolled-pH tests on well-treated municipal or industrial effluents. Such data should include raw toxicity test data sheets, ammonia measurements on tested samples, and daily initial and final pH measurements on each test treatment. EPA also requests data from multiple tests conducted on a given effluent over time to demonstrate a trend of artifactual toxicity due to pH drift in that effluent. Data sets should include full strength effluent, as well as a range of effluent concentrations and a dilution water control. Electronic as well as hard copy formats of raw test data and statistical analysis are encouraged. Though EPA continues to search for and may yet develop data supporting the need for procedures to control pH drift in the absence of ammonia or other pH-dependent toxicants, if sufficient data are not available at the time of final action on today's proposal, EPA may not incorporate changes to the methods beyond the 1996 guidance in the final rule.

B. Percent Minimum Significant Difference

The percent minimum significant difference (PMSD) is a measure of within-test variability and test sensitivity. The PMSD for a given WET test can be defined as the smallest percentage difference between the control and a treatment (an effluent dilution) that could be declared as statistically significant. As test variability increases, the ability of a test to detect small toxic effects diminishes and the test becomes a less sensitive measure of toxicity. Appendix C of the WET method manuals (USEPA, 1994a; USEPA, 1994b) describes the calculation of the minimum significant difference (MSD). The PMSD is simply the MSD expressed as a percentage of the control response (i.e., PMSD = MSD/control mean * 100).

In June 2000, EPA published guidance on WET test variability that recommended placing upper and lower bounds on the PMSD to control variability and ensure a specified range of test sensitivity (USEPA, 2000d). This guidance derived lower and upper bounds as the 10th and 90th percentiles, respectively, of PMSDs from a large number of reference toxicant tests. Based on this guidance, tests for which the PMSD exceeds an upper bound would be conducted again (with a newly collected sample), if the test leads to a decision that there is no significant toxicity at the concentration identified in the permit as a limit (''Instream Waste Concentration'' (IWC) or ''Receiving Water Concentration''). This

guidance also applies lower PMSD bounds for the purpose of determining the no observed effect concentration (NOEC). The purpose of the lower PMSD bound is to avoid declaring as ''significant'' toxic effects that are smaller than those that can generally and routinely be detected by the method as currently conducted by qualified laboratories. Application of a lower bound does not imply that EPA has knowledge that, or considers that, percent differences smaller than the lower bound represent non-toxic effects. The lower bound PMSD is used here not as a threshold for toxicity but as a measure of method precision.

Today, EPA seeks comment on proposing to require the application of the upper and lower PMSD bounds for sublethal endpoints in the (1) Ceriodaphnia dubia Survival and Reproduction Test; (2) Fathead Minnow Larval Survival and Growth Test; (3) Mysidopsis bahia Survival, Growth, and Fecundity Test; and (4) Inland Silverside Larval Survival and Growth Test. The proposed requirement would apply to the determination of the NOEC and LOEC (lowest observed effect concentration) for sublethal endpoints in multi-concentration tests. In the proposed application, the upper and lower PMSD bounds would be used to determine when a treatment differs significantly from the control treatment. Any test treatment with a percentage difference from the control (i.e., [mean control response—mean treatment response]/ mean control response * 100) that is greater than the upper PMSD bound would be considered as significantly different. Any test treatment with a percentage difference from the control that is less than the lower PMSD bound would not be considered as significantly different. The specifics of method manual changes proposed to institute the required application of PMSD bounds are detailed in the document titled, Proposed Changes to Whole Effluent Toxicity Method Manuals (USEPA, 2001d). The PMSD procedures about which EPA invites comment today would not preclude application of the current recommended guidance (USEPA 2000d) on PMSD bounds because today's proposed procedures are less restrictive than the guidance recommendation. EPA will consider using additional sources of data for developing lower and upper bounds for PMSD, including, but not limited to, data from EPA's WET Variability Study (USEPA, 2001a).

EPA considered the appropriateness of requiring PMSD bounds for the growth endpoints of the Sheepshead Minnow Larval Survival and Growth Test and the Selenastrum capricornutum Growth Test. At this time, EPA does not believe that requiring PMSD bounds for these test methods would be appropriate because: (a) These methods appear to achieve smaller PMSDs than the other chronic methods (USEPA 2000d), and (b) the PMSD bounds for these methods (USEPA 2000d) would be based upon fewer laboratories and tests (albeit a substantial number) than the PMSD bounds for the methods for which EPA invites comment today. EPA also considered the appropriateness of PMSD bounds for the survival endpoints of test methods for chronic toxicity, and test methods for acute toxicity. At this time, EPA does not believe that imposing PMSD bounds for the survival endpoints would be necessary because precision for survival endpoints appears to be, in most cases, better than precision for sublethal endpoints (USEPA 2000d). EPA seeks comment on the appropriateness of imposing PMSD bounds for four test methods and for sublethal endpoints.

EPA considered other measures of test precision, including the standard deviations and coefficients of variation for treatments and control, MSD, and the mean square for error from the analysis of variance of treatment effects (USEPA 1994a, 1994b). EPA considers the PMSD to be the measure that would be most easily understood and that could be directly applied to determination of NOEC and LOEC values. The PMSD quantifies the smallest percentage difference between the control and a treatment (effluent dilution) that could be declared as statistically significant. It thus includes exactly that variability affecting determination of the NOEC and LOEC. The CV for the control or any one treatment, or for selected treatments, represents only a portion of the variability affecting the NOEC, LOEC, and point estimates. Some State or Regional WET programs have requirements on the CV for the control and the treatment representing the IWC concentration. Such requirements can provide finer control over the variability influencing a comparison, especially a direct comparison between the control and the IWC treatment. The PMSD upper bound provides control over the average variability and would be used here specifically for multi-concentration tests in which the NOEC or LOEC are determined by using the MSD. EPA seeks comment on (1) the need for increased within-test precision, (2) the merits and drawbacks of applying PMSD bounds as described above, and (3) additional or alternative applications of PMSD bounds to control test precision. Alternative applications of PMSD bounds could include quality control requirements for laboratories to track PMSD values over time (e.g., control charts for PMSD performance in reference toxicant and/or effluent tests); a requirement to demonstrate recent, ongoing precision (PMSD less than an upper bound) in multiple tests before starting an effluent test; and/or use of PMSD bounds as a component of test review. EPA also requests that commenters submit data (hard copy and electronic format) to support their comments or recommendations regarding the application of PMSDs.

C. Other Method Modifications

In addition to the method modifications proposed today, EPA seeks comment and recommendations on other method modifications that would improve the performance of the WET test methods. Specifically, EPA requests comment and recommendations on (1) increasing the test acceptability criteria for mean control reproduction (number of young per surviving female) in the Ceriodaphnia dubia Survival and Reproduction Test; (2) increasing the test acceptability criteria for mean control weight (mean weight per original) in the Fathead Minnow Larval Survival and Growth Test; (3) increasing the number of replicate chambers per concentration from a minimum of three to a minimum of four in the Fathead Minnow Larval Survival and Growth Test Method, Sheepshead Minnow Larval Survival and Growth Test Method, the Inland Silverside Larval Survival and Growth Test Method, and the Sea Urchin Fertilization Test Method; and (4) increasing the minimum number of replicates in the Ceriodaphnia dubia Survival and Reproduction Test Method. Modifications to the minimum number of replicates would be made to improve the precision of the test methods. EPA intends to evaluate these and other options for improving WET test method performance using existing data (from the WET Variability Study and the Variability Guidance Document) and data submitted to EPA in response to this request. EPA requests comments and recommendations on any additional quality control measures that would increase test precision or the overall quality of data generated. Comments should be supported by data (hard copy and electronic format) and other technical information whenever possible. Comments that contain

suggestions that are not supported by submitted data will be considered, but will be given less weight than those supported by data. EPA also requests that commenters submit information on estimated increases in testing costs that may be associated with any recommended method modification.

Lastly, EPA requests comment on the document titled, Study Report and Recommended Standard Operating Procedure (SOP) for Shipping Large Volume Samples at Less Than 4°C (USEPA, 2001f), which is included in the record for this rulemaking (see Addresses section of this rule for more information on obtaining copies of referenced materials). This report presents data to support a recommended SOP for meeting sample temperature requirements (less than 4°C) during shipping of WET samples.

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List of Subjects in 40 CFR Part 136

Environmental protection, Reporting and recordkeeping requirements, Water pollution control.

Dated: September 24, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

1. The authority citation for Part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a), Pub. L. 95–217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977).

2. Section 136.3 is amended:

a. In Table IA paragraph (a) by revising entries 6 to 9.

b. In paragraph (a) by revising footnotes 7–9 to Table IA.

c. In paragraph (b) by revising references (34), (38), and (39). d. In paragraph (b) by removing and reserving reference (42).

§ 136.3 Identification of test procedures.

(a) * * *

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
*	*	*	*	*	*	*	
Aquatic Toxicity:							
6. Toxicity, acute, fresh water organisms, LC50, percent effluent..	Daphnia, Ceriodaphnia, Fathead Minnow, Rainbow Trout, Brook Trout, or Bannerfin Shiner mortality.	Sec. 9 [7]					
7. Toxicity, acute, estuarine and marine organisms, LC50, percent effluent..	Mysidopsis bahia, Holmesimysis costata, Sheepshead Minnow, or Menidia spp. mortality.	Sec. 9 [7]					
8. Toxicity, chronic, fresh water organisms, NOEC or IC25, percent effluent..	Fathead minnow larval survival and growth.	1000.0 [8]					
	Fathead minnow embryo-larval survival and teratogenicity.	1001.0 [8]					
	Ceriodaphnia survival and reproduction.	1002.0 [8]					
	Selenastrum growth	1003.0 [8]					
9. Toxicity, chronic, estuarine and marine organisms, NOEC or IC25, percent effluent..	Sheepshead minnow larval survival and growth.	1004.0 [9]					
	Sheepshead minnow embryo-larval survival and teratogenicity.	1005.0 [9]					
	Menidia beryllina larval survival and growth.	1006.0 [9]					
	Mysidopsis bahia survival, growth, a fecundity.	1007.0 [9]					
	Arbacia punctulata fertilization.	1008.0 [9]					
	Champia parvula reproduction.	1009.0 [9]					
*	*	*	*	*	*	*	

Notes to Table IA:

[1] The method must be specified when results are reported.

[7] USEPA. [Date: To be completed at final rule]. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fifth Edition. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. [EPA number: To be completed at final rule].

[8] USEPA. [Date: To be completed at final rule]. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Fourth Edition. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. [EPA number: To be completed at final rule].

[9] USEPA [Date: to be completed at final rule]. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Third Edition. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. [EPA number: To be completed at final rule]. These methods do not apply to marine waters of the Pacific Ocean.

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(b) * * *

References, Sources, Costs, and Table Citations:

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(34) USEPA. [Date: To be completed at final rule]. Methods for Measuring the Acute Toxicity of Effluents and Receiving Water to Freshwater and Marine Organisms. Fifth Edition. [Date: To be completed at final rule]. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio [EPA number: To be completed at final rule]. Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Publ. No. [Publication number: To be completed at final rule]. Cost: $[Cost: To be completed at final rule]. Table IA, Note 7.

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(38) USEPA. [Date: To be completed at final rule]. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms. Fourth Edition. [Date: To be completed at final rule]. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. [EPA number: To be completed at final rule]. Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Publ. No. [Publication number: To be completed at final rule]. Cost: $[Cost: To be completed at final rule]. Table IA, Note 8.

(39) USEPA. [Date: To be completed at final rule]. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Marine and Estuarine Organisms. Third Edition. [Date: To be completed at final rule]. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. [EPA number: To be completed at final rule]. Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Publ. No. [Publication number: To be completed at final rule]. Cost: $[Cost: To be completed at final rule]. Table IA, Note 9.

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(42) [Reserved]

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[FR Doc. 01–24374 Filed 9–27–01; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Friday,
September 28, 2001

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 99
Security Control of Air Traffic; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 99

[Docket No. FAA–2001–10693]

RIN 2120–AH25

Security Control of Air Traffic

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action modifies regulations governing security control of air traffic. Specifically, this action revises the boundaries of the Air Defense Identification Zones surrounding the contiguous United States and Alaska and amends the flight plan and communications requirements for pilots planning flight into, within, or whose departure point is within any of these zones. This action conforms the security control of air traffic regulations with Presidential Proclamation No. 5928; supports the Department of Defense in accomplishing its national defense and drug interdiction missions; and assists law enforcement agencies in their efforts to stop the transportation of illegal drugs by aircraft.

DATES: This final rule is effective on November 13, 2001. Comments for inclusion in the Rules Docket must be received on or before November 13, 2001.

ADDRESSES: Address your comments to the Docket Management Systems, U.S. Department of Transportation, Room PL, 401 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA has 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 comments on these regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Sheri Edgett Baron, 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:

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, we invite you comments on this rule. The most useful comments are those that are specific, related to issues raised by the rule, and that explain the reason for any recommended change. To ensure consideration, you must identify the Rules Docket number in your comments, and you must submit comments to the address specified under the **ADDRESSES** section of this preamble. We will consider all communications received on or before the closing date for comments, and we may amend or withdraw this rule in light of the comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

We specifically invite comments 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. We will file in the Rules Docket a report that summarizes each public contract related to the substance of this rule.

If you want us to acknowledge receipt of your comments submitted in response to this rule, you must include with your comments a self-addressed, stamped postcard on which you identify the Rules Docket number of this rulemaking. We will date stamp the postcard and return it to you.

Availability of Rulemaking Documents

You can get an electronic copy from the Department of Transportation's web site by taking the following steps:

1. Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search).

2. On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on ''Search''.

3. On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through FAA's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or through the Federal Register's web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can get a paper copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number of this rulemaking.

Background

On December 27, 1988, the President issued Proclamation No. 5928, Territorial Sea of the United States of America (54 FR 777, Jan. 9, 1989), which extended the boundaries of the territorial sea of the United States from 3 to 12 nautical miles from U.S. shorelines for international purposes. The territorial sea is a maritime zone extending beyond the shorelines, including the airspace, of the United States over which it exercises sovereignty and jurisdiction. The President issued Proclamation No. 5928 to advance National Security and other significant interests.

Although Proclamation No. 5928 extended the physical boundaries of the territorial seas, it did not extend the jurisdiction of any state or Federal law, nor did it alter the geographical boundaries of the national borders and territorial waters within three miles of the United States. As a result, the definition for ''United States'' contained in Title III of the Federal Aviation Act of 1958 (FAAct), since codified in 49 U.S.C. 1341–1355, was not changed by Proclamation No. 5928. Consequently, the definition contained in the FAAct for ''United States'' did not apply to the annexed territorial sea between three to twelve nautical miles from the U.S. shorelines.

Annex 2 of the Chicago Convention on International Civil Aviation obligates its members to adopt measures to insure that aircraft operating within its airspace comply with its air traffic rules and ''Rules of the Air.'' In addition, members are required to enforce their applicable regulations. Rules of the air imposed by the United States are found in Title 14 of the Code of Federal Regulations (14 CFR) part 91, among other regulations. However, for the reasons explained earlier, these rules could not be applied to the territorial seas between 3 and 12 nautical miles of United States shorelines, even though these areas could no longer qualify as ''open sea.'' In order to correct the lapse

in U.S. jurisdiction over the annexed airspace, the Federal Aviation Administration (FAA or ''we'') initiated several rulemaking actions.

On January 4, 1989, the FAA issued a final rule entitled Special Federal Aviation Regulation No. 53 (54 FR 264, Jan. 4, 1989) to coincide with the territorial jurisdiction adopted by the United States under Proclamation No. 5928. This final rule amended 14 CFR parts 71 and 91 to extend controlled airspace and the applicability of flight rules to the territorial seas between three and twelve nautical miles of U.S. shorelines.

On August 11, 1994, the Department of Defense (DoD) petitioned the FAA to initiate rulemaking to update 14 CFR part 99, which governs security control of air traffic. The petition requested extension of the boundaries of the inner air defense identification zone (ADIZ) to 12 nautical miles to reflect changes made by Proclamation No. 5928. The petition also asked for changes to streamline the identification of aircraft operating in an ADIZ. The DoD is the lead agency charged with the responsibility for aerial detection and monitoring of drug smuggling, especially in the ADIZ. An ADIZ is an area of airspace over land or water in which the ready identification, location, and control of civil aircraft is required in the interest of national security. Airspace designated as an ADIZ exists throughout the contiguous U.S., Alaska, Hawaii, and Guam.

The DoD also requested that the FAA take action: (1) To add and define the term ''aeronautical facility,''; (2) to require pilots to activate and close a flight plan when flying into, within, or when the departure point is within an ADIZ; and (3) to require pilots to maintain a continuous listening watch on the appropriate aeronautical facility's frequency when operating an aircraft into, within, or when the departure point is within an ADIZ. The DoD requested these changes to help accomplish their national defense and drug interdiction mission, and assist law enforcement agencies in their efforts to stop the use of aircraft for the illegal transportation of drugs.

In response to the DoD petition, the FAA published a notice in the **Federal Register** to inform interested parties of the requested changes and to solicit comments (60 FR 36746, July 18, 1995). The FAA received one comment in response to the Notice from the Air Line Pilots Association (ALPA). ALPA concurred with the petition stating, ''[t]he changes will enable the DOD to more efficiently carry out its mission of detection and monitoring of drug smuggling and this will improve the safety of all aircraft operations in the [air defense identification zones].''

Based on our review of the DoD petition and the comment received from ALPA, the FAA has determined that it is in the public interest to grant the petition and amend 14 CFR part 99 by issuing a final rule that is immediately effective. Under our regulations (14 CFR 11.11), we may use a type of immediately effective final rule that we call a ''final rule with request for comment.'' A final rule with request for comment is a rule that invites public comment on a rule that we are issuing in final (with an effective date). We usually do this when we have not first issued a notice of proposed rulemaking (NPRM) because we have found that doing so would be impractical, unnecessary, or contrary to the public interest.

In this case, we have determined that issuing an NPRM is both unnecessary and contrary to the public interest. An NPRM is unnecessary because we do not anticipate any substantive comments. In the most recent rulemaking affecting part 99, we received no adverse comments (See 53 FR 18216, May 20, 1988, a final rule changing the lateral boundaries of ADIZ). As discussed earlier in this preamble, when we published the July 1995 notice announcing receipt of the DoD petition, we received only one comment, and it was favorable. Issuing a proposed rule is also contrary to the public interest because it would further delay the establishment of rules that will hinder the smuggling of illegal drugs and protect public safety.

The Rule

In this final rule, the FAA is taking four actions: First, the FAA is creating a definition for the term ''aeronautical facility.'' Second, FAA is modifying the airspace boundaries of the contiguous U.S. and Alaska ADIZs to conform, in part, with Presidential Proclamation No. 5928. Third, the FAA is amending regulations that require pilots operating into, within, or whose departure point is within an ADIZ to activate and close their flight plans. Fourth, the FAA is amending the regulations to require that pilots operating aircraft into, within, or whose departure point is within an ADIZ maintain a continuous listening watch on the appropriate aeronautical facility's frequency. The FAA is making these changes to protect aircraft from the flight practices of persons conducting illegal drug activities that may create safety hazards. Aircraft used to conduct illegal drug activities frequently fly at low altitude and high speed to avoid radar detection. This practice increases the risk of midair collision or loss of aircraft control and poses a threat to aircraft used in legitimate operations and for persons and property on the ground. The FAA also believes that requiring pilots to activate and close a flight plan and to maintain a continuous listening watch on the appropriate aeronautical facility's frequency will provide necessary tracking information to the DoD. Using this information, the DoD and law enforcement agencies can quickly identify aircraft involved in illegal operations resulting in the fewer safety hazards created by aircraft involved in illegal drug activities.

Section-by-Section Analysis of the Final Rule

Section 99.1 Applicability

In this rule, we are amending paragraph (b)(2) of this section to be consistent with Presidential Proclamation No. 5928, which extended the boundaries of the territorial sea of the United States from 3 to 12 nautical miles from U.S. shorelines for international purposes. We are also making an editorial change to previous paragraph (c), which established a radio-operating requirement. As discussed later in the preamble, we are moving the substance of previous paragraph (c) to § 99.9, entitled ''Radio requirements.'' As a result, we are renumbering previous paragraph (d), which remains in all other respects unchanged, as paragraph (c).

Section 99.3 Definitions

In this rule, we are making several changes to this section. Previous § 99.3 was titled ''General,'' but this section primarily contained definitions used under part 99. We are therefore changing the heading of § 99.3 from ''General'' to ''Definitions,'' which is a more accurate description of its contents. The FAA has decided to retain, with slight editorial changes, the three terms defined in this section, ''air defense identification zone,'' ''defense area,'' and ''defense visual flight rules (DVFR) flight.'' Also, in response to the DoD's request, we are adding a definition of ''aeronautical facility.'' The Office of the Federal Register (Federal Register) recommends that paragraph designations not be used with definitions. Instead, the Federal Register recommends listing definitions in alphabetical order. See ''Federal Register Document Drafting Handbook,'' section 8.15, Office of the Federal Register, National Archives and Records Administration, Oct. 1998. In order to

conform to the Federal Register's preferred formatting, we are eliminating the paragraph designations from § 99.3 and listing the definitions in alphabetical order.

The definition of ''aeronautical facility,'' for the purposes of part 99, is a communications facility where flight plans or position reports are normally filed during flight operations. We are adding this definition simply for clarity and do not intend for this addition to be a substantive change in the regulations.

Section 99.9 Radio Requirements

In this rule, we are adding new requirements to § 99.9, which clarify the existing regulation, and we are changing its format. Previous § 99.9 provided a short paragraph prohibiting the operation of an aircraft in an ADIZ unless it was equipped with a radio. We are now amending this section to add paragraph (a) which requires that all pilots maintain a continuous listening watch on the appropriate aeronautical facility's frequency when operating an aircraft into, within, or whose departure point is within an ADIZ.

By ''into'' an ADIZ, we intend to apply the requirement to pilots operating aircraft whose departure point is outside an ADIZ and who subsequently enter the ADIZ. These pilots would have to maintain a continuous listening watch from the time the aircraft enter the ADIZ until they exit or land within the ADIZ.

By ''within'' an ADIZ, we intend to apply the requirement to pilots operating aircraft transiting an ADIZ. These pilots would have to maintain a continuous listening watch from the time the aircraft enter the ADIZ until they exit the ADIZ.

By aircraft ''whose departure point is within'' an ADIZ, we intend to apply the requirement to pilots who take off from a point within an ADIZ, such as an island or drilling platform, and who subsequently exit the ADIZ. These pilots would have to maintain a continuous listening watch from the time the aircraft takeoff until they exit the ADIZ.

Prior to this rulemaking, only pilots operating in the Alaska ADIZ were required to monitor the appropriate frequency. The FAA believes this new requirement will expedite the FAA's ability to identify, track or contact aircraft operating in an ADIZ. Once identified, the appropriate government agency will be able to distinguish legitimate aircraft operations from illegal operations.

We are also moving and re-designating the requirement in previous § 99.1(c) as new § 99.9(b) and making editorial changes. These changes are not substantive and do not change existing requirements under part 99. The reason for this action is simply to group all radio-related requirements in one place. This action should make the regulations easier to understand.

Section 99.11 ADIZ Flight Plan Requirements

We are making one change to § 99.11(a), to require pilots, in addition to the current requirement to file a flight plan, to activate and close their flight plan with the appropriate aeronautical facility when operating aircraft into, within, or when the departure point is within an ADIZ. Before this rulemaking, pilots were required only to file the flight plan. On occasion, pilots do not activate their filed flight plans. When this occurs, the aircraft are considered unknown, and military aircraft are deployed to intercept and identify the aircraft. On other occasions, pilots do not properly close their flight plans after reaching their final destinations. This causes the initiation of search-and-rescue efforts to locate the aircraft. In both cases, resources are expended needlessly.

The FAA believes that this requirement will eliminate the costs associated with unnecessary intercept and search-and-rescue efforts. In addition, these requirements will provide an increased level of public safety by limiting or reducing the use of aircraft to conduct drug smuggling without placing an undue burden on the public. Smugglers typically fly at low altitude and at high speed to avoid radar detection. This practice can result in mid-air collisions or loss of control of the aircraft and poses a threat to aircraft used in legitimate operations and to persons and property on the ground.

Subpart B—Designated Air Defense Identification Zones

Section 99.42 Contiguous U.S. ADIZ and Section 99.43 Alaska ADIZ

As discussed earlier in this preamble, we are changing the boundaries of the contiguous United States and Alaska ADIZ to extend 12 nautical miles from U.S. shorelines. Before the rulemaking, the boundaries extended only three nautical miles beyond the U.S. shorelines. We are accomplishing this by substituting in each section a new sets of points (described by latitude and longitude) that establish the boundaries of the ADIZs when connected by lines. This action aligns the ADIZ boundaries with the territorial sea of the United States. This action conforms to the Presidential proclamation extending the jurisdiction of the United States, supports the Department of Defense in accomplishing its national defense and drug interdiction missions, and assists law enforcement agencies in their efforts to stop the transport of illegal drugs across the Nation's borders by aircraft.

Procedural Matters

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, small entities that have a question regarding this document may contact their local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** section of this preamble. You can find out more about SBREFA on the Internet at our site, http://www.gov/avr/arm/sbrefa.htm. For more information on SBREFA, e-mail us at *9-AWA-SBREFA@faa.gov.*

Paperwork Reduction Act

This rule does not require the collection of any information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). 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 Office of Management and Budget (OMB) control number.

Regulatory Flexibility Act, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that the final rule: (1) Will generate benefits that justify its negligible costs and is not a ''significant regulatory action'' as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial

number of small entities; (4) will not constitute a barrier to international trade; and (5) will not contain any Federal intergovernmental or private sector mandate. These analyses are summarized here in the preamble, and the full Regulatory Evaluation is in the docket.

This final rule will modify the boundaries of the contiguous U.S. and Alaska ADIZ, amend flight plan and communications requirements for pilots planning flight into, within, or whose departure point is within an ADIZ, and add the definition ''aeronautical facility'' to § 99.3.

This final rule will also reduce the costs associated with unnecessary intercepts. The final rule will impose no additional administrative or operational costs on the FAA. It will also make Part 99 consistent with Presidential Proclamation No. 5928, and provide the necessary tracking information to assist DoD and law enforcement agencies in identifying aircraft involved in illegal operations, thereby, reducing the safety hazards created by aircraft involved in illegal drug activities.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

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

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

In view of the absence of any cost impact of the rule on small entities, the FAA has determined that this final rule won't have a significant economic impact on a substantial number of small entities.

Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

This final rule will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries or the import of foreign goods and services into the United States.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action. This final rule doesn't contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Act of 1995 don't apply.

Executive Order 10854, Extension of the Application of the Federal Aviation Act of 1958

Since this amendment involves the designation of airspace areas outside of the United States, we have consulted with the Secretary of State, in accordance with the provisions of Executive Order 10854, to ensure that there are no conflicts with any international treaty or agreement to which the United States is a party and this action is consistent with the successful conduct of the foreign relations of the United States.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism (52 FR 41685, Oct. 30, 1987). We have determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Plain Language

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

Environmental Analysis

FAA order 1050.1D defines FAA actions that may be categorically excluded from preparations of a National Environmental Policy Act environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the rule has been assessed in accordance with the Energy Policy and Conservation Act of 1995 (EPCA), as amended, 42 U.S.C. 6201 *et seq.*, and FAA Order 1053.1. The FAA has determined that the rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 99

Air traffic control, Airspace, National defense, Navigation (air), Security measures.

The Amendment

Accordingly, the Federal Aviation Administration amends Title 14 Code of Federal Regulations Part 99 as follows:

PART 99—SECURITY CONTROL OF AIR TRAFFIC

1. The authority citation for part 99 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40103, 40106, 40113, 40120, 44502, and 44721.

2. The FAA is amending § 99.1 by revising paragraph (b)(2), removing paragraph (c), and redesignating paragraph (d) as paragraph (c) as follows:

Subpart A–General

§ 99.1 Applicability.

* * * * *

(b) * * *

(2) Operating at true airspeed of less than 180 knots in the Hawaii ADIZ or over any island, or within 12 nautical miles of the coastline of any island, in the Hawaii ADIZ;

* * * * *

3. The FAA is revising the section heading and the text of § 99.3 to read as follows:

§ 99.3 Definitions.

Aeronautical facility means, for the purposes of this subpart, a communications facility where flight plans or position reports are normally filed during flight operations.

Air defense identification zone (ADIZ) means an area of airspace over land or water in which the ready identification, location, and control of civil aircraft is required in the interest of national security.

Defense area means any airspace of the contiguous United States that is not an ADIZ in which the control of aircraft is required for reasons of national security.

Defense visual flight rules (DVFR) flight means, for the purposes of this subpart, a flight within an ADIZ conducted by a civil aircraft under the visual flight rules in part 91 of this title.

4. The FAA is revising § 99.9 to read as follows:

§ 99.9 Radio requirements

(a) A person who operates a civil aircraft into an ADIZ must have a functioning two-way radio, and the pilot must maintain a continuous listening watch on the appropriate aeronautical facility's frequency.

(b) No person may operate an aircraft into, within, or whose departure point is within an ADIZ unless—

(1) The person files a DVFR flight plan containing the time and point of ADIZ penetration, and

(2) The aircraft departs within five minutes of the estimated departure time contained in the flight plan.

5. The FAA is revising paragraph (a) of § 99.11 to read as follows:

§ 99.11 ADIZ flight plan requirements.

(a) Unless otherwise authorized by air traffic control, a person must not operate an aircraft into, within, or whose departure point is within an ADIZ unless the person files, activates, and closes a flight plan with the appropriate aeronautical facility.

* * * * *

6. The FAA is revising § § 99.42 and 99.43 to read as follows:

Subpart B—Designated Air Defense Identification Zones

§ 99.42 Contiguous U.S. ADIZ

The area bounded by a line from 43°15′N, 65°55′W; 44°21′N; 67°16′W; 43°10′N; 69°40′W; 41°05′N; 69°40′W; 40°32′N; 72°15′W; 39°55′N; 73°00′W; 39°38′N; 73°00′W; 39°36′N; 73°40′W; 37°00′N; 75°30′W; 36°10′N; 75°10′W; 35°10′N; 75°10′W; 32°00′N; 80°30′W; 30°30′N; 81°00′W; 26°40′N; 79°40′W; 25°00′N; 80°05′W; 24°25′N; 81°15′W; 24°20′N; 81°45′W; 24°30′N; 82°06′W; 24°41′N; 82°06′W; 24°43′N; 82°00′W; 25°00′N; 81°30′W; 25°10′N; 81°23′W; 25°35′N; 81°30′W; 26°15′N 82°20′W; 27°50′N; 83°05′W; 28°55′N; 83°30′W; 29°42′N; 84°00′W; 29°20′N; 85°00′W; 30°00′N; 87°10′W; 30°00′N; 88°30′W; 28°45′N; 88°55′W; 28°45′N; 90°00′W; 29°25′N; 94°00′W; 28°20′N; 96°00′W; 27°30′N; 97°00′W; 26°00′N; 97°00′W; 25°58′N; 97°07′W; westward along the U.S./Mexico border to 32°32′03′N, 117°07′25′W; 32°30′N; 117°25′W; 32°35′N; 118°30′W; 33°05′N; 119°45′W; 33°55′N; 120°40′W; 34°50′N; 121°10′W; 38°50′N; 124°00′W; 40°00′N; 124°35′W; 40°25′N; 124°40′W; 42°50′N; 124°50′W; 46°15′N; 124°30′W; 48°30′N; 125°00′W; 48°20′N; 128°00′W; 48°20′N; 132°00′W; 37°42′N; 130°40′W; 29°00′N; 124°00′W; 30°45′N; 120°50′W; 32°00′N; 118°24′W; 32°30′N; 117°20′W; 32°32′03′N; 117°07′25′W; eastward along the U.S./Mexico border to 25°58′N, 97°07′W; 26°00′N; 97°00′W; 26°00′N; 95°00′W; 26°30′N; 95°00′W; then via 26°30′N; parallel to 26°30′N; 84°00′W; 24°00′N; 83°00′W; then Via 24°00′N; parallel to 24°00′N; 79°25′W; 25°40′N; 79°25′W; 27°30′N; 78°50′W; 30°45′N; 74°00′W; 39°30′N; 63°45′W; 43°00′N; 65°48′W; to point of beginning.

§ 99.43 Alaska ADIZ.

The area is bounded by a line from 54°00′N; 136°00′W; 56°57′N; 144°00′W; 57°00′N; 145°00′W; 53°00′N; 158°00′W; 50°00′N; 169°00′W; 50°00′N; 180°00′; 50°00′N; 170°00′E; 53°00′N; 170°00′E; 60°00′00′N; 180°00′; 65°00′N; 169°00′W; then along 169°00′W; to 75°00′N; 169°00′W; then along the 75°00′N; parallel to 75°00′N, 141°00′W; 69°50′N; 141°00′W 71°18′N; 156°44′W; 68°40′N; 167°10′W; 67°00′N; 165°00′W; 65°40′N; 168°15′W; 63°45′N; 165°30′W; 61°20′N; 166°40′W; 59°00′N; 163°00′W; then south along 163°00′W to 54°00′N, 163°00′W; 56°30′N; 154°00′W; 59°20′N; 146°00′W; 59°30′N; 140°00′W; 57°00′N; 136°00′W; 54°35′N, 133°00′W; to point of beginning.

Issued in Washington, DC on September 24, 2001.

Jane F. Garvey,

Administrator.

[FR Doc. 01–24426 Filed 9–27–01; 8:45 am]

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Air Transportation Safety and System Stabilization Act (Sept. 22, 2001; 115 Stat. 230)

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