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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 66, No. 200
Tuesday, October 16, 2001

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–094–1]

Change in Disease Status of Japan Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by adding Japan to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in a native-born animal in that region. The effect of this action is restriction on the importation of ruminants that have been in Japan and meat, meat products, and certain other products of ruminants that have been in Japan. This action is necessary to help prevent the introduction of bovine spongiform encephalopathy into the United States.

DATES: This rule is effective retroactively to September 10, 2001. We invite you to comment on this docket. We will consider all comments that we receive by December 17, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–094–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–094–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, Sanitary Issues Management Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

BSE is a neurological disease of bovine animals and other ruminants and is not known to exist in the United States. It appears that BSE is primarily spread through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Therefore, BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, and animal byproducts from ruminants, are imported into the United States and are fed to ruminants in the United States. BSE could also become established in the United States if ruminants with BSE are imported into the United States.

Sections 94.18, 95.4, and 96.2 of the regulations prohibit or restrict the importation of certain meat and other animal products and byproducts from ruminants that have been in regions in which BSE exists or in which there is an undue risk of introducing BSE into the United States. In § 94.18, paragraph (a)(1) lists the regions in which BSE exists. Paragraph (a)(2) lists the regions that present an undue risk of introducing BSE into the United States because their import requirements are less restrictive than those that would be acceptable for import into the United States and/or because the regions have inadequate surveillance. Paragraph (b) of § 94.18 prohibits the importation of fresh, frozen, and chilled meat, meat products, and most other edible products of ruminants that have been in any region listed in paragraphs (a)(1) or (a)(2). Paragraph (c) of § 94.18 restricts the importation of gelatin derived from ruminants that have been in any of these regions. Section 95.4 prohibits or restricts the importation of certain byproducts from ruminants that have been in any of those regions, and § 96.2 prohibits the importation of casings, except stomach casings, from ruminants that have been in any of these regions. Additionally, the regulations in 9 CFR part 93 pertaining to the importation of live animals provide that the Animal and Plant Health Inspection Service may deny the importation of ruminants from regions where a communicable disease such as BSE exists and from regions that present risks of introducing communicable diseases into the United States (see § 93.404(a)(3)).

On September 10, 2001, Japan reported a suspected case of BSE in a native-born animal, and on September 22, 2001, Japan confirmed their diagnosis in a report to the Office International des Epizooties. Therefore, in order to reduce the risk of introducing BSE into the United States, we are amending § 94.18 (a)(1) by adding Japan to the list of regions where BSE is known to exist. The effect of this action is a restriction on the importation of ruminants that have been in Japan and on the importation of meat, meat products, and certain other products and byproducts of ruminants that have been in Japan. We are making this amendment effective retroactively to September 10, 2001, which is the date that BSE was reported in a native-born animal in that region.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the introduction of BSE into the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register** that will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required under Executive Order 12866.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to September 10, 2001; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.18 [Amended]

2. In § 94.18, paragraph (a)(1) is amended by adding, in alphabetical order, the word ''Japan,''.

Done in Washington, DC, this 10th day of October 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–25953 Filed 10–15–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 97–001TF]

RIN 0583–AC35

Elimination of Requirements for Partial Quality Control Programs; Certification of Scales

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending its regulations governing the certification for accuracy of scales used in federally inspected meat and poultry establishments. Under the final rule, official establishments may rely on State or local certification or data from documented procedures that demonstrate compliance with the National Institute of Standards and Technology Handbook 44. This final rule addresses an issue raised after publication of the May 30, 2000, final rule ''Elimination of Requirements for Partial Quality Control (PQC) Programs,'' by clarifying that establishments may rely on data from documented procedures, and that FSIS will verify establishment compliance with regulations on the accuracy of scales based on data maintained by the establishments.

EFFECTIVE DATE: This final rule is effective November 15, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–5627, fax number (202) 690–0486.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 2000, FSIS published the final rule ''Elimination of Requirements for Partial Quality Control Programs'' (65 FR 34381). The final rule, which became effective August 28, 2000, removed from the Federal meat and poultry products inspection regulations the remaining requirements pertaining to partial quality control (PQC) programs. A PQC program, as distinguished from a total quality control (TQC) system, controls a single product, operation, or part of an operation in a meat or poultry establishment. A TQC system controls all products and processes in an establishment. The final rule removed the design requirements for PQC programs and the requirements for establishments to have PQC programs for certain products or processes. The final rule was intended to make the regulations more consistent with the Pathogen Reduction (PR)/Hazard Analysis and Critical Control Points (HACCP) regulations and to give federally inspected establishments greater flexibility to adopt new technologies and methods that will improve food safety and other consumer protections.

Status of Establishment PQC Programs

After publication of the final rule, some establishments asked the Agency whether they could continue to use their PQC programs, including PQC programs for net weight. Some persons who contacted the Agency asked specifically about the status of PQC programs that control net weight. Some establishments believed that, if such programs were rescinded, their products would be subject to lot inspection by FSIS. FSIS answered that the final rule does not rescind PQC programs for net weight. Establishments can continue to use PQC programs for net weight, and the Agency will verify their compliance with net weight requirements based on data from such programs.

Others asked whether the Agency would recognize TQC system data or PQC net weight program data regarding the testing of scales. They referred to the fact that the final rule removes the requirement for an establishment to have a total quality control (TQC) system provision for net weight or a partial quality control (PQC) program for net weight control in lieu of displaying, on or near its scales, a valid certification from a State or local weights and measures authority or from

a State-registered or -licensed scale repair firm or person (9 CFR 317.21(b), 381.121d(b), as amended).

With respect to the amended regulations on the testing of scales (9 CFR 317.21(b), 381.121d(b)), the May 30 final rule required that there be a certification of accuracy from State or local authorities or from a State-registered or -licensed repair firm or person. The preamble to the final rule also stated that establishments could continue to maintain the scale-checking provisions in their QC programs and systems (65 FR 34385). The final rule did not say whether the Agency, in the course of its verification activities, would accept the scale checking data generated by TQC systems or PQC programs. The inference that could be made from the May 30 final rule was that the only documentation of the accuracy of scales that FSIS would accept is a certification of accuracy by State or local authorities or by a State-registered or licensed repair firm or person.

FSIS notes that the other regulations on accuracy and testing of scales (9 CFR 317.20, 317.21(a), 381.121c, 381.121d(a)) continue in force. FSIS also notes that, when evaluating TQC and PQC net weight program provisions for testing scales, FSIS has always expected the systems and programs to ensure compliance with the regulations and the requirements of National Institute of Standards and Technology (NIST) Handbook 44. When evaluating data and information from TQC systems, PQC programs, or other documented procedures relating to the accuracy of scales, the Agency will continue to expect the data to reflect compliance or non-compliance with the Handbook 44 requirements.

On September 18, 2000, FSIS therefore proposed to amend the May 30 final rule to clarify that establishments could provide alternative documentation that scales meet the requirements of NIST Handbook 44 and the other regulatory requirements for accuracy and testing of scales, in lieu of State or local certification of scales (65 FR 56262). Such documentation could be data or information generated by a TQC system or PQC program or records of tests conducted in accordance with NIST Handbook 44 requirements or other requirements of the regulations.

Comments Received

FSIS received comments on the proposal from a trade association representing food processors, two officials of the union representing FSIS food inspectors, and an engineer employed by a food equipment manufacturer. The trade association supported the proposal because it would give official establishments the flexibility to use data from TQC systems or PQC programs to ensure compliance with net weight regulations.

Two officials of the union that represents FSIS food inspectors opposed the proposal on the grounds that: (1) it would remove scale certification requirements; (2) it would result in product adulteration by chemicals and food ingredients in amounts greater than regulations permit; (3) the proposal falsely claimed that ''HACCP programs'' could control scale certification; and (4) Handbook 44 is an unenforceable guideline.

The Agency responds to these points as follows: (1) Under the proposal, scale certification requirements would be essentially the same as they were from the time when the current net weight regulations were promulgated until the May 30, 2000, final rule. Before the final rule, which became effective August 28, 2000, establishments were able to use data from PQC programs or TQC systems to ensure compliance of scales with net weight regulations. This meant that the scales had to be in compliance with Handbook 44 specifications.

(2) The scale certification provisions addressed by the proposal are intended to help ensure the compliance of meat and poultry products with net weight requirements. The accuracy of scales helps to ensure the accuracy of product net weight statements. The chemical and food ingredient example does not support the commenters' point because food ingredient or chemical restrictions are typically expressed as percentages of products or product formulations. That means that if the same scale were used to weigh the meat and other ingredients of a product, there would still be compliance with the restricted ingredient regulations.

(3) The proposal didn't discuss the use of HACCP plans to control scale accuracy. It did state that establishments could implement PQC programs that were ''not in conflict'' with HACCP plans (65 FR 56262).

(4) Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,'' is incorporated by reference in the net weight regulations. The requirement for scales to be tested at least once a year in accordance with Handbook 44 (9 CFR 317.21(a), 381.121d(a)) has been in effect since 1991 and is not a subject of this rulemaking.

The equipment company engineer also objected to the use of NIST Handbook 44 criteria as inappropriate for determining the accuracy of scales used in official establishments. This commenter stated that the Handbook 44 criteria conflict with NIST Handbook 130 requirements regarding variations from net quantity declarations on packaged commodities.

FSIS notes that Handbook 130, ''Uniform Laws and Regulations in the Areas of Legal Metrology and Fuel Engine Quality,'' is not directly applicable to net weight determinations for meat and poultry products and is not incorporated by reference into the FSIS regulations. NIST Handbook 133, ''Checking the Net Contents of Packaged Goods,'' including the provisions for maximum allowable variation in net weight, applies specifically to FSIS-regulated products and is incorporated by reference in the FSIS regulations governing procedures for determining net weight compliance (9 CFR 317.19, 381.121b) for those products. No changes respecting these requirements were envisioned in the proposal. Further, the comment was not relevant to the proposal because the proposal was not intended to address the criteria for determining the accuracy of scales, but only the form of documentation of that accuracy.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not ''significant'' within the meaning of Executive Order 12866. This rulemaking is not expected to impose any new costs on the regulated industry or on other sectors of the economy.

The Administrator has determined that this final rule will not have a significant economic impact on a substantial number of small entities. Most of the entities that will be affected by this final rule are small business establishments, under Small Business Administration criteria (500 or fewer employees). This final rule will permit establishments to use data from documented procedures to demonstrate that their scales comply with the requirements of NIST Handbook 44, in lieu of certification by State or local authorities or State-licensed repair services or persons. The documented procedures may include TQC systems or PQC programs for net weight. Approximately 240 establishments that operate TQC systems and several hundred establishments that have PQC programs for net weight can continue to use those systems and programs that control the accuracy of scales. In other words, establishments will not have to change their practices for ensuring the accuracy of their scales to comply with this rule. The effect of this final rule on

the affected establishments will therefore not be significant.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. States and local jurisdictions are preempted by the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any marking or packaging requirements on federally inspected meat and meat products or poultry products that are in addition to, or different than, those imposed under the FMIA and PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat or poultry products that are misbranded or adulterated under the FMIA or PPIA. States and local jurisdictions also may exercise concurrent jurisdiction, for the same purpose, over imported meat and poultry products that are not at an official establishment after the entry of such imported articles into the United States.

This final rule is not intended to have retroactive effect.

There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this final rule. However, the administrative procedures specified in 9 CFR 306.5 and 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this final rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA or PPIA.

Additional Public Notification

Public awareness of all stages of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce it and provide copies of this **Federal Register** publication in the weekly FSIS Constituent Update. FSIS communicates the Constituent Update by fax to over 300 organizations and individuals and makes it available on line through the FSIS web page located at *http://www.fsis.usda.gov*. The update provides information on FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other information that could affect or would be of interest to the Agency's constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, readers of this document may fax their requests to the Congressional and Public Affairs Office, at (202) 720–5704.

List of Subjects

9 CFR Part 317

Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 381

Poultry and poultry products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FSIS is amending 9 CFR, chapter III, the Federal meat and poultry inspection regulations, as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Paragraph (b) of § 317.21 is revised as follows:

§ 317.21 Scales; testing of.

(a) * * *

(b) The operator of each official establishment shall display on or near each scale a valid certification of the scale's accuracy from a State or local government's weights and measures authority or from a State registered or licensed scale repair firm or person, or shall have alternative documented procedures showing that the scale has been tested for accuracy in accordance with the requirements of NIST Handbook 44.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

4. Paragraph (b) of § 381.121d is revised as follows:

§ 381.121d Scales; testing of.

(a) * * *

(b) The operator of each official establishment shall display on or near each scale a valid certification of the scale's accuracy from a State or local government's weights and measures authority or from a State registered or licensed scale repair firm or person, or shall have alternative documented procedures showing that the scale has been tested for accuracy in accordance with the requirements of NIST Handbook 44.

Done at Washington, DC, on October 10, 2001.

Thomas J. Billy,

Administrator.

[FR Doc. 01–25922 Filed 10–15–01; 8:45 am]

BILLING CODE 3410–DM–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG77

List of Approved Spent Fuel Storage Casks: NAC–UMS Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC–UMS Universal Storage System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 2 to Certificate of Compliance Number 1015. Amendment No. 2 will add miscellaneous spent fuel related components to the approved contents list for the NAC–UMS Universal Storage System and change the required actions in response to a failure of the cask heat removal system. Several other minor administrative changes will be made, which are discussed in Section 12 of the Safety Evaluation Report. Specific changes will be made to Technical Specifications (TS) to permit the storage of these components and the other requested changes. Changes will also be made to Conditions 1b and 6 of the Certificate of Compliance.

DATES: The final rule is effective December 31, 2001, unless significant adverse comments are received by November 15, 2001. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–

0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

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

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML011990392. 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, 301–415–4737, or by email to pdr@nrc.gov.

CoC No. 1015, the revised TS, the underlying SER for Amendment No. 2, and the Environmental Assessment are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, email *jmm2@nrc.gov.*

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

SUPPLEMENTARY INFORMATION:

Background

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

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72, entitled ''Approval of Spent Fuel Storage Casks'' containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on October 19, 2000 (65 FR 62581) that approved the NAC–UMS cask design by adding it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance Number (CoC No.) 1015.

Discussion

On October 17, 2000, and as supplemented on December 7, 2000, April 27, 2001, July 5, 2001, July 18, 2001, July 19, 2001, July 26, 2001, and August 1, 2001, the applicant (NAC International, Inc.) submitted an application and associated Safety Analysis Report to the NRC to amend CoC No.1015 to add miscellaneous spent fuel related components to the approved contents list for the NAC–UMS Universal Storage System and to change the required actions in response to a failure of the cask heat removal system. The applicant requested changes to the authorized contents to include components associated with the spent fuel assemblies, as follows:

(1) A segment of an In-Core Instrumentation (ICI) string located within a fuel assembly.

(2) Three plutonium-beryllium (Pu-Be) startup sources located within the fuel assemblies.

(3) Two antimony-beryllium (Sb-Be) sources located within the fuel assemblies.

(4) Control Element Assembly (CEA) Finger Tip located within a fuel assembly.

The applicant also requested deletion of the technical specification requirement to place the canister in the transfer cask if the vertical concrete cask's vents cannot be unblocked within the required completion time because the risk associated with the concrete cask not performing its thermal function is minimal. Other minor administrative changes were also requested. These minor changes are discussed in Section 12 of the SER.

CoC Condition 1b will be changed to allow storage of pressurized water reactor (PWR) fuel assemblies that may include components associated with the assemblies. Also, CoC Condition 6 will be changed to more clearly allow storage of the fuel related components.

The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that the requested changes do not reduce the safety margin. In addition, the NRC staff has determined that the changes do not pose any increased risk to public health and safety.

This direct final rule revises the NAC–UMS cask design listing in § 72.214 by adding Amendment No. 2 to CoC No. 1015. The amendment consists of adding miscellaneous spent fuel related components to the approved contents list for the NAC–UMS Universal Storage System and changing the required actions in response to a failure of the cask heat removal system. Also, other administrative changes will be made. Specific changes will be made to TS SR 3.1.2.1, SR 3.1.3.1, LCO 3.1.6, SR 3.2.1.1, A 5.3, A 5.7, B2.1, B 2.1.3, and Tables B2–2, B2–6, and B2–7 to permit the storage of these components and the other requested changes. Other Technical Specification sections will be changed for correction of typographical, spelling, and other minor editorial errors.

The amended NAC–UMS cask system, when used under the conditions specified in the CoC, the TS, and NRC regulations, will meet the requirements of Part 72; thus, adequate protection of public health and safety will continue to be ensured.

Discussion of Amendments by Section

§ 72.214 List of approved spent fuel storage casks.

Certificate No. 1015 is revised by adding the effective date of Amendment Number 2.

Procedural Background

This rule is limited to the changes contained in Amendment 2 to CoC No. 1015 and does not include other aspects of the NAC–UMS cask system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on December 31, 2001. However, if the NRC receives significant adverse comments by November 15, 2001, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the **Federal Register**. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

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

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

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

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

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

(3) The comment causes the NRC staff to make a change to the CoC or TS.

Any comments that are received by the NRC will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Voluntary Consensus Standards

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

Agreement State Compatibility

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

Plain Language

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

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, is not a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule amends the CoC for the NAC–UMS cask system within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. The amendment modifies the present cask system design to add miscellaneous spent fuel related components to the approved contents list for the NAC–UMS Universal Storage System and changes the required actions in response to a failure of the cask heat removal system. Other minor administrative changes are also made. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, email jmm2@nrc.gov.

Paperwork Reduction Act Statement

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

Public Protection Notification

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

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On October 19, 2000 (65 FR 62581), the NRC issued an amendment to Part 72 that approved the NAC–UMS cask design by adding it to the list of NRC-approved cask designs in § 72.214. On October 17, 2000, and as supplemented on April 27, 2001, July 5, 2001, July 18, 2001, July 19, 2001, July 26, 2001, and August 1, 2001, NAC International, Inc., submitted an application to the NRC to amend CoC No. 1015 to add miscellaneous spent fuel related components to the approved contents list for the NAC–UMS Universal Storage System and to change

the required actions in response to a failure of the cask heat removal system. Other minor administrative changes were also requested.

This direct final rule revises the NAC–UMS cask design listing in § 72.214 by adding Amendment No. 2 to CoC No. 1015. The amendment consists of adding miscellaneous spent fuel related components to the approved contents list for the NAC–UMS Universal Storage System and changing the required actions in response to a failure of the cask heat removal system. Also, other administrative changes will be made. Specific changes will be made to TS SR 3.1.2.1, SR 3.1.3.1, LCO 3.1.6, SR 3.2.1.1, A 5.3, A 5.7, B2.1, B 2.1.3, and Tables B2–2, B2–6, and B2–7 to permit the storage of these components and the other requested changes. Other Technical Specification sections will be changed for correction of typographical, spelling, and other minor editorial errors. Changes will also be made to Conditions 1b and 6 of the CoC. The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

The direct final rule eliminates the described problem and is consistent with previous NRC actions. Further, the direct final rule has no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule does not have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and NAC International, Inc. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

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

Small Business Regulatory Enforcement Fairness Act

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

List of Subjects in 10 CFR Part 72

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

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR Part 72.

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

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

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

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

2. In § 72.214, Certificate of Compliance 1015 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1015.

Initial Certificate Effective Date: November 20, 2000.

Amendment Number 1 Effective Date: February 20, 2001.

Amendment Number 2 Effective Date: December 31, 2001.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC–UMS Universal Storage System.

Docket Number: 72–1015.

Certificate Expiration Date: November 20, 2020.

Model Number: NAC–UMS.

* * * * *

Dated at Rockville, Maryland, this 1st day of October, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–25890 Filed 10–15–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–146–AD; Amendment 39–12458; AD 2001–20–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that requires inspection of wire bundles in certain junction boxes in the main wheel well to detect chafing or damage, and follow-on actions. The actions specified by this AD are intended to prevent wire damage, which could result in arcing

and consequent fire in the main wheel well or passenger cabin, or inability to stop the flow of fuel to an engine or to the auxiliary power unit in the event of a fire. This action is intended to address the identified unsafe condition.

DATES: Effective November 20, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 20. 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on June 5, 2001 (66 FR 30114). That action proposed to require inspection of wire bundles in four junction boxes in the main wheel well to detect chafing or damage, and follow-on actions.

Comments

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

One commenter concurs with the proposed rule; another commenter indicates that it is already accomplishing the proposed inspections and has no further comments.

Extend Compliance Time

One commenter asks that we extend the compliance time for the proposed requirements from 12 to 18 months after the effective date of the AD. The commenter states that the 12-month compliance time is not a sufficient amount of time to perform the inspection (check) during its 737 fleet 'C-check' cycle. The assessment was based on the amount of operational testing that would have to be performed on the systems that would be disturbed by the proposed inspections and modifications. The commenter recommends the compliance time be extended to 18 months to ensure the inspection may be accomplished during a scheduled maintenance visit.

The FAA agrees to extend the compliance time for the inspection to 18 months. In developing an appropriate compliance time for the inspection required by the final rule, we considered not only the degree of urgency associated with addressing the unsafe condition, but the practical aspect of accomplishing the inspection of the wire bundles on the Model 737 fleet in a timely manner. It is our intent in this final rule to allow the inspections to be done within the time frame of a regular maintenance interval. We took the commenter's recommendations into account, as well as the time necessary to do the specified actions, and we find that an 18-month compliance time should correspond with the regular maintenance schedules of the majority of affected operators. An extension of the compliance time to 18 months will not adversely affect safety. Paragraph (a) of the final rule has been changed accordingly.

Two commenters ask that the proposed compliance time be extended to 24 months. One commenter, the airplane manufacturer, states that, based on input from the airlines and an internal Boeing review, the compliance time should be extended. The commenter notes that this extension will provide adequate time for compliance to operators with large fleets because they will be able to accomplish the inspection during routine maintenance, rather than scheduling an inspection specifically to address the proposed rule. The second commenter states that a 24-month compliance time would allow it to accomplish the inspections during regularly scheduled maintenance.

We do not agree to extend the compliance time for the inspection to 24 months. We have already considered factors such as operators' maintenance schedules in setting a compliance time for the required modification, and have determined that 18 months is an appropriate compliance time in which the inspection may be accomplished during scheduled airplane maintenance for the majority of affected operators. Since maintenance schedules vary from operator to operator, it would not be possible to guarantee that all affected airplanes could be modified during scheduled maintenance, even with a compliance time of 24 months. In any event, we find that 18 months represents the maximum time wherein the affected airplanes may continue to operate prior to inspection without compromising safety. No further change to the final rule is necessary in this regard.

Add New Service Information

One commenter asks that Boeing Service Letter 737–SL–24–138, dated May 24, 1999, be added to the proposed rule as another source of service information for accomplishment of certain actions related to those specified in the proposed rule. The service letter was referenced in a Civil Airworthiness Authorities' Additional Airworthiness Directive.

On July 2, 2001, the FAA issued AD 2001–14–06, amendment 39–12316 (66 FR 36445, July 12, 2001), which references that service letter as the appropriate source of service information for accomplishment of the inspections of the circuit connectors of the fuel shutoff valve in the main wheel well. As the service letter has been addressed in another AD, no change to the final rule is necessary in this regard.

Change Certain Requirements

One commenter asks that the proposed requirement of wire protection features, as specified in paragraph (a)(1) of the proposed rule, be changed to agree verbatim with the procedures specified in Boeing Service Letter 737–SL–24–111, dated February 27, 1996. The commenter states that the proposed requirement implies that the protective methods need to be incorporated regardless of the condition of the wire bundles, whereas the service letter does not specify incorporation of wire protection features unless contact between the wiring and junction box is found. The commenter adds that such action would require re-inspection of the fleet, in addition to added work that may be unjustified. The commenter also adds that installation of wire protection would not be necessary in that the affected wire bundles are short in length and, due to the relatively rigid nature of the installation at the pressure seal, if a wire bundle was found to have adequate clearance from the cover, this condition probably would not change.

The FAA does not agree. Although there may be no damage to the wiring found during the inspection, the chafing condition that prompted this rulemaking action could still develop eventually, due to airplane vibration. Incorporation of the wire protection features will ensure that this condition

does not develop. No change to the final rule is necessary in this regard.

Add Work Hours to Cost Impact Section

One commenter asks that the estimate of 8 work hours per airplane for doing the proposed actions, as specified in the Cost Impact section of the proposed rule, be changed. The commenter states that the estimate is not accurate based on the amount of operational checks required after disturbing the affected connectors/systems in the junction boxes to repair damage to wiring. The commenter recommends that the estimate be changed to 35 work hours per aircraft and adds that this labor estimate is based on its experience with accomplishment of the original release of the referenced service letter.

The FAA does not agree with the commenter's request to include the work hours necessary for repairs of the wiring and subsequent operational checks in the Cost Impact section of the proposed AD. The Cost Impact section only includes the ''direct'' costs of the specific actions required, which include inspecting the wire bundles and protecting the wires from chafing. The AD does not include the cost of ''on-condition'' actions, such as repair of the wiring if chafing is detected during the required inspection (''repair, if necessary''). Such on-condition repair actions would be required to be accomplished, regardless of AD direction, to correct an unsafe condition identified in an airplane and to ensure the airworthiness of that airplane, as required by the Federal Aviation Regulations. No change to the work hour estimate in the final rule is necessary.

Conclusion

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

Cost Impact

There are approximately 3,719 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,467 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. The cost of required parts will be negligible. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $704,160, or $480 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–20–10 Boeing: Amendment 39–12458. Docket 2000–NM–146–AD.

Applicability: All Model 737–100, –200, –300, –400, and –500 series airplanes; and Model 737–600, –700, –800, and –900 series airplanes, line numbers 1 through 706 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of wire bundles in four junction boxes in the main wheel well, which could result in arcing and consequent fire in the main wheel well or passenger cabin, or inability to stop the flow of fuel to an engine or to the auxiliary power unit in the event of fire, accomplish the following:

Inspection

(a) Within 18 months after the effective date of this AD, perform a detailed visual inspection of the wire bundles in the four junction boxes formed by electrical disconnect brackets on the left and right sides of the main wheel wells to detect damage or chafing, as specified in Boeing Service Letter 737–SL–24–111–B, dated January 16, 2001.

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

(1) If no chafing is detected, prior to further flight, protect the wire bundles from chafing against the cover plate of the junction box, according to the service letter.

(2) If any chafing is detected, prior to further flight, repair the wiring in accordance with the service letter, and protect the wire bundles from chafing against the cover plate of the junction box, according to the service letter.

Note 3: Boeing Service Letter 737–SL–24–111–B, dated January 16, 2001, refers to Boeing Standard Wiring Practices Manual D6–54446, Subject 20–10–13, as the

appropriate source of repair instructions if any damaged wiring is found.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Letter 737–SL–24–111–B, including Attachment, dated January 16, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on November 20, 2001.

Issued in Renton, Washington, on October 4, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25616 Filed 10–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–225–AD; Amendment 39–12460; AD 2001–20–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, that requires revising the Airworthiness Limitations Section of the maintenance manual (757 Airworthiness Limitations Instructions (ALI)). The revision will incorporate into the ALI certain inspections and compliance times to detect fatigue cracking of principal structural elements (PSE). This amendment is prompted by analysis of data that identified specific initial inspection thresholds and repetitive inspection intervals for certain PSEs to be added to the ALI. The actions specified by the proposed AD are intended to ensure that fatigue cracking of various PSEs is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: Effective November 20, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 20, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 757 series airplanes was published in the **Federal Register** on January 29, 1999 (64 FR 4367). That action proposed to require revising Section 9 of the Airworthiness Limitations Section of the maintenance manual (757 Airworthiness Limitations Instructions (ALI)). The revision would incorporate certain inspections and compliance times to detect fatigue cracking of principal structural elements (PSE).

Comments

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

Support for the Notice of Proposed Rulemaking (NPRM)

One commenter supports the NPRM.

1. Request for Specific Task Content and Implementation Intervals

The manufacturer requests that a newer revision, dated November 1998 of Boeing 757 Maintenance Planning Data, Boeing Document D622N001–9, be specified in the final rule. The manufacturer notes that the November 1998 revision contains qualifying statements that, for some affected airplanes, would reduce the scope of some of the actions required by the May 1997 revision, which was cited in the NPRM as the appropriate source of service information. Another commenter states that it opposes the NPRM, but if the FAA issues the final rule, the operator requests that the identical task content and interval of implementation specified in Revision November 1998 of Boeing Document D622N001–9 be followed in the final rule.

The FAA concurs that the final rule should specify more recent service information than the May 1997 revision. Since the issuance of the NPRM, Boeing Document D622N001–9 (Section 9), dated November 1998, has been issued by the manufacturer and approved by the FAA. We have, therefore, included the November 1998 revision as an option to accomplish in lieu of the May 1997 revision specified in paragraph (a) of this final rule. We consider the requirements of this final rule to be interim action until such time that a new NPRM may be developed to require accomplishment of the November 1998 revision of Boeing Document D622N001–9.

2. Request To Extend Reporting Requirement Period

One commenter requests that the reporting period (as specified in Section 9) be extended from the proposed 10 days to 20 days. The commenter notes that 20 days would allow enough time to collate all inspection findings and transmit a single data package for each airplane.

The FAA agrees with the commenter. However, since Section 9 is not specifically identified in the NPRM (it is embodied in the reference to Subsection B of Boeing Document D622N001–9), we have incorporated the reference to the reporting requirement that was specified in Note 2 of the NPRM into a new paragraph (b) of the final rule. Paragraph (b) of the final rule clarifies

that the reporting requirement embodied in the reference to Subsection B has been extended to within 20 days after performance of inspections required by paragraph (a) of the final rule.

3. Request To Provide Further Clarification Regarding Flight Cycles vs. Flight Hour Thresholds

One commenter, the airplane manufacturer, states that, since there is reference to the 25,000-flight-cycle threshold and 50,000-flight-cycle threshold in the preamble of the NPRM, it should also be noted that there is a flight cycle versus flight hour threshold for some items that are sensitive to flight length. Also, the commenter notes that there are some other restrictions, such as a calendar threshold of 20 years unless an FAA-approved Corrosion Prevention and Control Program (CPCP) has been implemented, as well as a requirement to revert any escalated structural inspections back to the intervals specified in Section 8 of the Maintenance Planning Data (MPD) document.

The FAA acknowledges that there is other information available in the revision to the MPD, which was not discussed in the preamble of the NPRM. The information that we provided in the preamble of the NPRM was intended to be representative of the information that was used to determine that none of the airplanes affected is likely to reach the threshold for certain PSEs, which are identified as Structurally Significant Items (SSIs) in the ALIs. Since the Discussion section in the preamble of the NPRM does not reappear in the final rule, no change to the final rule is necessary in this regard.

4. Request To Revise Certain Preamble Information

One commenter, the manufacturer, notes that some necessary clarifications and corrections to information included under the heading ''Actions Taken by the Manufacturer'' in the preamble of the NPRM. The commenter advises that reference to the word ''recently'' is misleading since most of the listed actions occurred many years ago. The commenter also recommends listing the actions in order of significance and adding additional items to the actions specified under that heading.

The FAA acknowledges that certain information under that heading could be revised for clarification purposes. However, since the information in the paragraph under that heading in the preamble of the NPRM does not reappear in the final rule, no change to the final rule is necessary in this regard.

5. Request To Revise Certain SSI Repair Actions

One commenter requests that the proposed requirements of the NPRM be revised to reflect certain repair actions for SSIs that were installed before the effective date of the AD and certain other repair actions for SSIs that are installed after the effective date of the AD.

The FAA does not agree. In the case of this final rule, the required action is simply to revise Section 9 of the Model 757 MPD by incorporating Subsection B of Boeing Document D622N001–9, Revision May 1997 or November 1998. The specific information contained in the MPD is developed (with the concurrence of the FAA) and then printed by the manufacturer. We point out that the requirements of this AD do not address the accomplishment of the specific information contained in Subsection B. The effect of requiring that the MPD be revised to incorporate the current version of the ALI is that, in accordance with 14 CFR Part 91.403(c), operators are then required to comply with limitations contained in the MPD. This is analogous to the effect of requiring a revision to the operating limitations. (In accordance with 14 CFR Part 91.9(a), operators are required to comply with the revised operating limitations.) However, a new NOTE 1 has been added to the AD to address the possible need to obtain approval of alternative methods of compliance (AMOC) for certain repairs. Therefore, no further change to the final rule is necessary in this regard.

6. Request To Specify Proper MPD Subsection

One commenter, the manufacturer, notes that the reference in the NPRM to ''Chapter B'' of Section 9 of Boeing 757 MPD is incorrect. The commenter states that the correct title is ''Subsection B.'' The FAA agrees and has revised the final rule accordingly.

7. Request To Withdraw the NPRM

Several commenters state that the NPRM is unnecessary.

One commenter states that the NPRM is unnecessary because Section 9 of the MPD already mandates compliance with Airworthiness Certification Maintenance Requirements.

Another commenter states that the NPRM is unnecessary as long as Boeing agrees to incorporate the changes on their own within the proposed three-year compliance time. The commenter states that issuing an AD to require the manufacturer to comply with a certain revision of its own manuals will only require more regulation down the road. The commenter explains that, when it is time to revise the MPD, an Alternate Means of Compliance (AMOC) would be required prior to using the new revision.

Another commenter states that the rule is unnecessary because operators cannot revise a Boeing document.

The FAA infers that, since these commenters state that they believe the NPRM is unnecessary, the commenters would like the NPRM to be withdrawn. We do not agree. The airworthiness limitations, like the operating limitations, are a part of the type certificate for an airplane. Once an airworthiness certificate is issued for an airplane certifying that it conforms to an approved type design, this design is ''locked'' in the sense that the manufacturer cannot unilaterally change it for the subject airplane. Therefore, when the manufacturer makes any subsequent changes to the type certificate, including changes to the operating or airworthiness limitations, those changes are legally required only for products that are submitted for airworthiness certification based on a showing of conformity to the later design.

Thus, for many years, the FAA has imposed operating restrictions that are necessary to address identified unsafe conditions by requiring revisions to the operating limitations section of the Airplane Flight Manual (AFM). (Revision of the AFM by the type certificate holder would be effective only for airplanes produced after that revision.) Similarly, Boeing's revision to the ALI was effective only for airplanes later certificated with those revisions included in their type certificate. For this reason, as stated in the NPRM, we must engage in rulemaking (i.e., issuance of an AD), in order to make the revisions mandatory for previously certificated airplanes.

While the ALIs are contained in a ''Boeing document'' in the sense that Boeing originally produced it, the document, nevertheless, is a part of the instructions for continued airworthiness that operators must use to maintain the airplane properly. As explained in the NPRM, the effect of requiring that the document be revised to incorporate the current version of the ALI is that, in accordance with 14 CFR part 91.403(c), operators are then required to comply with those limitations. This is analogous to the effect of requiring a revision to the operating limitations: in accordance with 14 CFR part 91.9(a), operators are required to comply with the revised operating limitations.

Of course, those operators that have previously revised the ALI (or

incorporated the revision into their maintenance programs) are given credit for having previously accomplished the requirements of this AD, as allowed by the phrase, ''unless accomplished previously.'' The legal effect is the same: the operator is required to comply with the limitations per 14 CFR part 91.403(c).

8. Request To Clarify Intent of the NPRM

One commenter states that paragraph (b) of the NPRM (paragraph (c) of the final rule) appears to conflict with the original intent of the NPRM. Paragraph (b) of the NPRM specifies that, after revising the MPD in accordance with paragraph (a) of the NPRM, no alternative inspections or inspection intervals shall be approved for the PSEs. The commenter explains that it is not clear why paragraph (b) is needed if the inspections were accomplished in accordance with 14 CFR parts 43 and 91. The commenter states that paragraph (b) of the NPRM essentially defeats the stated purpose of the NPRM, which is to have operators record their AD compliance only once (at the time the operator's maintenance program is changed), in order to reduce the burden of record keeping and tracking.

The FAA does not agree. The purpose of this AD is to address the identified unsafe condition of fatigue cracking in certain PSEs. We have determined that, in order to accomplish that purpose, those airplanes must be brought into compliance with the certification basis, i.e., 14 CFR Part 25.571, amendment 25–45. Revising the ALI, as required by paragraph (a) of this AD, fulfills this purpose. Once an operator records that the ALI have been revised, additional record keeping of AD compliance is not required, since the actual accomplishment of the inspections specified in the ALI is required, not by the AD, but by 14 CFR 91.403(c). We point out that paragraph (c) of the final rule merely repeats and enforces the provision presently existing in the Boeing 757 MPD, which requires any revision of the airworthiness limitations to be approved by the Manager, Seattle Aircraft Certification Office, FAA. We consider that paragraph (c) of the final rule, therefore, does not conflict with the intention to have operators record their AD compliance only once. No change is necessary to the final rule in this regard.

9. Request To Permit Compliance With Damage Tolerance Rating (DTR) System

One commenter requests that paragraph (b) of the NPRM be revised to permit compliance with the DTR system. The commenter states that the supplemental inspection program uses the DTR system to determine the inspections/inspection intervals necessary to provide adequate fatigue damage detection for each SSI. The commenter notes that the DTR check forms define inspection options permitting an operator to customize an inspection program.

The FAA does not agree that a revision is necessary. The DTR system is specifically referenced in the ALI, and its use is allowed by paragraph (a) of this AD. Therefore, there is no need to obtain a separate approval for its use. This AD does not specifically address (or restrict) the use of the DTR specified in the ALI. No change is necessary to the final rule in this regard.

10. Requests To Require Incorporation of ALI Into Operations Specifications

One commenter, the manufacturer, suggests that the NPRM be revised to require the operators to incorporate the ALIs into the appropriate Maintenance Program Specification (Operations Specification).

The FAA does not agree that incorporation of the ALIs into the Operations Specifications (Ops Specs) is appropriate. Operation of certain transport airplanes may be exclusively under the provisions and requirements of part 91, and therefore, operators would not even be required to maintain Ops Specs. Further, Ops Specs simply authorize the use of a Continuous Airworthiness Maintenance Program (CAMP) for the operator's individual airplane models and specify, in particular, that procedures, standards, checks, service, repair, and/or preventive maintenance, and tests, shall be described in the certificate holder's manual.

The commenter further requests that the requirements of the NPRM be written such that the operator's Ops Specs is continuously updated with the current revision of Section 9 of the MPD. If that process is not possible, the commenter suggests that the requirements be accomplished in accordance with the latest FAA-approved revision of Section 9 of the MPD.

The FAA does not agree with the commenter's requests. We note that the commenter provided no justification or benefit of implementing the suggested changes. In response to the suggestion that the Ops Specs be continuously updated with current revisions of Section 9 of the MPD, we note that incorporation of new revisions of the ALI into the Ops Specs would have the effect of imposing new requirements without providing notice to the public and opportunity for comment.

However, in this case, the request to reference a specific later revision is acceptable as an alternative method of compliance, as explained previously in comment number 1. of this final rule. Therefore, we have revised paragraph (a) of the final rule to add the ''November 1998'' revision of Section 9 of the MPD as an optional or alternative method of compliance with the requirements of this AD.

11. Request To Omit Apostrophe in Acronyms

The manufacturer requests that the apostrophe be deleted on plural use of acronyms, e.g., PSEs and ADs. The FAA acknowledges that there are different applications of the use of apostrophes for plural acronyms. For the purpose of consistency in this AD, we have revised all plural acronyms to omit the apostrophe.

Editorial Changes Appearing in the Final Rule

We have revised the contents of Note 1 of the final rule to clarify for operators the intent and purposes of that note when performing inspections in accordance with certain airworthiness limitations documents.

We also note that, while SSIs are a subset of PSEs, the Federal Aviation Regulations (FAR) related to damage tolerance refer only to PSEs. Therefore, for the purposes of this AD, we consider the two terms interchangeable. A new NOTE 2 has been added to the final rule to clarify this information.

Conclusion

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

Cost Impact

There are approximately 764 Boeing Model 757 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 300 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $18,000, or $60 per airplane.

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

Although this AD requires only a revision to the current ALI, the FAA recognizes that the inspections contained in the ALI will then be required by parts 43 and 91 of the FAR. The FAA estimates that it will take approximately 1,000 work hours to accomplish all of the ALI inspections. At an average labor rate of $60 per work hour, the cost to perform the ALI inspections (required by FAR parts 43 and 91, rather than by part 39) will be approximately $60,000 per airplane. The FAA notes that the majority of work hours needed to perform the inspections will be expended when an affected airplane reaches the 50,000-flight-cycle threshold. Based upon current airplane utilization, the FAA estimates that no airplane will reach this threshold for at least 10 years.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–20–12 Boeing: Amendment 39–12460. Docket 98–NM–225–AD.

Applicability: Model 757 series airplanes having line numbers 1 through 764 inclusive, certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR Part 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR part 91.403(c), the operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include a description of the changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Compliance: Required as indicated, unless accomplished previously.

To ensure continued structural integrity of these airplanes, accomplish the following:

Revision of Airworthiness Limitations and Certification Maintenance Requirements

(a) Within 3 years after the effective date of this AD, revise Section 9 of the Boeing 757 Maintenance Planning Data (MPD) Document entitled ''Airworthiness Limitations and Certification Maintenance Requirements (CMRs)'' to incorporate Subsection B. of Boeing Document D622N001–9, Revision ''May 1997,'' or Revision ''November 1998.''

Note 2: For the purposes of this AD, the terms Principal Structural Elements (PSEs) as used in this AD, and Structural Significant Items (SSIs) as used in Section 9 of Boeing 757 MPD Document, are considered to be interchangeable.

Reporting Requirements

(b) Although Subsection B. of Boeing Document D622N001–9, dated November 1998, references a requirement that cracks found during the specified inspections be reported with 10 days, this AD requires that those reports be submitted to the Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, within 20 days after the inspection. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(c) Except as provided in paragraph (d) of this AD: After the actions required by paragraph (a) of this AD have been accomplished, no alternative inspections or inspection intervals shall be approved for the PSEs contained in Boeing Document D622N001–9, Revision ''May 1997'' or ''November 1998.''

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

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

Special Flight Permits

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

Incorporation by Reference

(f) The MPD revision shall be done in accordance with Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001–9, Revision ''MAY 1997;'' or Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001–9, Revision ''November 1998.'' Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001–9, Revision ''MAY 1997'' contains the following effective pages:

Page No.	Revision shown on page
List of Effective Pages—Page 9.0–4.	May 1997.

Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001–9, Revision ''November 1998'' contains the following effective pages:

Page No.	Revision shown on page
List of Effective Pages—Page 9.0–5.	November 1998.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on November 20, 2001.

Issued in Renton, Washington, on October 4, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25617 Filed 10–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–131–AD; Amendment 39–12468; AD 2001–20–19]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 series airplanes. This action requires a visual inspection for heat damage, arcing, and loose terminal screws of the ground service electrical circuit breaker panel, and corrective actions, if necessary. This action is necessary to prevent overheating or arcing of circuit breakers in the ground service electrical circuit breaker panel, which could result in damage to the circuit breaker, wiring, or surrounding insulation blankets, and consequent smoke or fire in the flightdeck. This action is intended to address the identified unsafe condition.

DATES: Effective October 31, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 31, 2001.

Comments for inclusion in the Rules Docket must be received on or before December 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–131–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–131–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that an inspection to determine the cause of a popped circuit breaker revealed burn marks and a loose terminal screw at the bus bar side of a circuit breaker in the ground service electrical circuit breaker panel on a McDonnell Douglas Model MD–90–30 series airplane. Further inspection revealed that several more circuit breakers in the same circuit breaker panel were also found to have loose terminal screws. The loose terminal screws of the circuit breaker were attributed to incorrect reinstallation of electrical components after replacement of circuit breaker panel, which had misdrilled mounting holes during production. This condition, if not corrected, could result in damage to the circuit breaker, wiring, or surrounding insulation blankets, and consequent smoke or fire in the flightdeck.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Alert Service Bulletin MD90–24A049, dated September 18, 1997, which describes procedures for a visual inspection of the circuit breakers of the ground service electrical circuit breaker panel located in the left console, for heat damage, arcing, or loose terminal screws. The alert service bulletin also describes procedures for replacing any circuit breaker having heat damage or evidence of arcing with a new circuit breaker, and tightening any loose terminal screw on the circuit breakers. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent damage to the circuit breaker, wiring, or surrounding insulation blankets due to overheating or arcing of the circuit breakers, which could result in smoke or fire in the flightdeck. This AD requires accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the required actions at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $60 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic

impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–131–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–20–19 McDonnell Douglas: Amendment 39–12468. Docket 2001–NM–131–AD.

Applicability: Model MD–90–30 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A049, dated September 18, 1997; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating or arcing of circuit breakers in the ground service electrical circuit breaker panel, which could result in damage to the circuit breaker, wiring, or surround insulation blankets, and consequent smoke or fire in the flightdeck; accomplish the following:

Inspection and Corrective Actions, If Necessary

(a) Within 60 days after the effective date of this AD: Perform a general visual inspection of the circuit breakers and electrical terminals in the ground service electrical circuit breaker panel for heat damage, arcing, and loose terminal screws, per McDonnell Douglas Alert Service Bulletin MD90–24A049, dated September 18, 1997.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If no heat damage, arcing, or loose terminal screw is detected, no further action is required by this AD.

(2) If any circuit breaker or terminal has heat damage or evidence of arcing is detected, before further flight, replace the circuit breaker with a new circuit breaker, per the alert service bulletin.

(3) If any terminal screw of the circuit breaker is loose, before further flight, tighten the screw, per the alert service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A049, dated September 18, 1997. This incorporation by reference was

approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on October 31, 2001.

Issued in Renton, Washington, on October 5, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25662 Filed 10–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–36–AD; Amendment 39–12467; AD 2001–18–51]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA.315B, SA.316C, SA 3180, SA 318B, SA 318C, SA.319B, SE.3160, and SA.316B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2001–18–51, which was sent previously to all known U.S. owners and operators of Eurocopter France (ECF) Model SA.315B, SA.316C, SA 3180, SA 318B, SA 318C, SA.319B, SE.3160, and SA.316B helicopters by individual letters. This AD requires, within 10 hours time-in-service (TIS), inspecting the magnetic drain plug and the main gear box (MGB) filter for a rust-colored deposit, inspecting the MGB to determine the angular displacement on the MGB output flange, and periodically examining oil samples. If a rust-colored deposit is found on the drain plug or filter, if the oil is rust-colored, or if the angular displacement is 1 millimeter (0.039 inch) or more, this AD requires replacing the MGB with an airworthy MGB before further flight. Repairing or overhauling the gearbox, or re-identifying certain gearboxes that have already been appropriately overhauled, is terminating action for the requirements of this AD. This AD is prompted by an accident of an ECF Model SA.315B helicopter that lost power to the tail rotor. The loss of power to the tail rotor was due to wear of the splines of the output bevel drive pinion in the MGB. The actions specified by this AD are intended to prevent a loose splined coupling, spline wear, loss of power to the tail rotor, and subsequent loss of control of the helicopter.

DATES: Effective October 31, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–18–51, issued on August 31, 2001, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 31, 2001.

Comments for inclusion in the Rules Docket must be received on or before December 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–36–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.*

The applicable service information may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On August 31, 2001, the FAA issued Emergency AD 2001–18–51, for ECF Model SA.315B, SA.316C, SA 3180, SA 318B, SA 318C, SA.319B, SE.3160, and SA.316B helicopters, which requires, within 10 hours TIS, inspecting the magnetic drain plug and the MGB filter for a rust-colored deposit, inspecting the MGB to determine the angular displacement on the MGB output flange, and periodically examining oil samples. If a rust-colored deposit is found on the drain plug or filter, if the oil is rust-colored, or if the angular displacement is 1 millimeter (0.039 inch) or more, the AD requires replacing the MGB with an airworthy MGB before further flight. Repairing or overhauling the gearbox, or re-identifying certain gearboxes that have already been appropriately overhauled, is terminating action for the requirements of the AD. That action was prompted by an accident of an ECF Model SA.315B helicopter that lost power to the tail rotor. The loss of power to the tail rotor was due to wear of the splines of the output bevel drive pinion in the MGB. An overhaul and repair shop used an unauthorized sealant that led to spline wear. This condition, if not corrected, could result in a loose splined coupling, spline wear, loss of power to the tail rotor, and subsequent loss of control of the helicopter.

Eurocopter has issued Alert Service Bulletin Nos. 05.40 and 05.99, both dated August 7, 2001, which specify checking the wear rate of the lower pinion-to-MGB vertical shaft bevel gear housing coupling splines. The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, classified these service bulletins as mandatory and issued ADs T2001–366–059(A), T2001–367–062(A), and T2001–368–045(A), all dated August 13, 2001, to ensure the continued airworthiness of these helicopters in France.

Since the unsafe condition described is likely to exist or develop on other ECF Model SA.315B, SA.316C, SA 3180, SA 318B, SA 318C, SA.319B, SE.3160, and SA.316B helicopters of the same type designs, the FAA issued Emergency AD 2001–18–51 to prevent a loose splined coupling, spline wear, loss of power to the tail rotor, and subsequent loss of control of the helicopter. The AD requires the following at specified hours TIS:

- If appropriate, re-identify the MGB. Appropriately re-identifying certain MGBs is terminating action for the requirements of this AD.
- Inspect the magnetic drain plug and the MGB filter for a rust-colored deposit. Inspect the MGB to determine the angular displacement on the MGB output flange.
- If a rust-colored deposit is found or if the angular displacement is 1 millimeter (0.039 inch) or more, replace the MGB with an airworthy MGB before further flight.

• Take an oil sample and drain the MGB. If the oil is rust-colored, replace the MGB with an airworthy MGB before further flight. If the oil is not rust-colored, take a sample for future comparison.

• At each oil change, take a sample and compare it to the previous sample. If the oil is rust-colored, replace the MGB with an airworthy MGB before further flight. If the color is unchanged, store the last sample for future comparison.

The actions must be accomplished in accordance with the alert service bulletins described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, the actions described previously are required within 10 hours TIS, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on August 31, 2001, to all known U.S. owners and operators of ECF Model SA.315B, SA.316C, SA 3180, SA 318B, SA 318C, SA.319B, SE.3160, and SA.316B helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

The FAA estimates that 73 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2.5 work hours per helicopter to accomplish the required actions, and the average labor rate is $60 per work hour. Required parts will cost approximately $15 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,045.

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 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 mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–36–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–18–51 Eurocopter France: Amendment 39–12467. Docket No. 2001–SW–36–AD.

Applicability: Model SA.315B, SA.316C, SA 3180, SA 318B, SA 318C, SA.319B, SE.3160, and SA.316B main gearbox assembly (MGB), part number 319A62–00–000–1, 319A62–00–000–2, 319A62–00–000–3, 319A62–00–000–4, with one of the following serial-numbered MGBs installed, certificated in any category:

10007, 3–10204, 3–10206, 3–10272, 3–10335, 3–10377, 3–10382, 3–10424, 3–10434, 3–10437, 3–10441, 3–10490, 3–10574, 3–10603, 3–10640, 3–10663, 3–10676, 3–10709, 3–10710, 3–10712, 3–10731, 3–10751, 3–10753, 3–10766, 3–10804, 3–10814, 3–10853, 3–10902, 3–10927, 3–10943, 3–10950, 3–10951, 3–10988, 3–10989, 3–110, 3–11008, 3–11026, 3–11104, 3–11124, 3–11190, 3–11210, 3–11232, 3–11238, 3–11301, 3–11376, 3–11427, 3–11511, 3–11537, 3–11565, 3–11571, 3–11583, 3–11607, 3–11608, 3–11662, 3–11691, 3–11694, 3–11698, 3–11735, 3–11775, 3–2115, 3–2174, 3–2217, 3–2218, 3–2263, 3–2267, 3–2279, 3–2286, 3–2300, 3–2303, 3–2305, 3–2307, 3–2322, 3–2334, 3–2345, 3–2346, 3–2347, 3–2348, 3–2352, 3–2353, 3–2354, 3–2355, 3–2372, 3–2373, 3–2374, 3–2391, 3–2399, 3–2400, 3–2410, 3–2411, 3–2413, 3–2414, 3–2415, 3–2424, 3–2442, 3–2445, 3–2470, 3–2472, 3–2481, 3–2484, 3–2495, 3–2500, 3–2503, 3–2515, 3–2545, 3–2549, 3–2555, 3–2573, 3–2574, 3–2582, 3–2584, 3–2589, 3–2591, 3–2594, 3–2596, 3–2597, 3–2616, 3–2688, 3–2736, 3–2741, 3–2751, 3–2764, 3–2769, 3–2782, 3–2783, 3–2818, 3–2820, 3–2850, 3–2852, 3–2871, 3–2891, 3–2896, 3–2917, 3–2927, 3–2934, 3–2943, 3–2954, 3–2955, 3–2960, 3–3001, 3–3090, 3–3094, 3–3110, 3–3131, 3–3137, 3–3144, 3–3166, 3–3179, 3–3195, 3–3217, 3–3218, 3–3221, 3–3232, 3–3251, 3–3265, 3–3279, 3–3283, 3–3286, 3–3299, 3–3317, 3–3318, 3–3319, 3–3329, 3–3355, 3–3358, 3–3372, 3–3375, 3–3633, 3–431, 3–536.

M–2013, M–2061, M–2072, M–2079, M–2139, M–2144, M–2145.

NT–3378, NT–3380, NT–3404, NT–3423, NT–3429, NT–3443, NT–3447, NT–3449, NT–3467, NT–3474, NT–3490, NT–3502, NT–3509, NT–3539, NT–3552, NT–3560, NT–3586, NT–3590, NT–3620, NT–3653, NT–3671, NT–3676, NT–3722, NT–3724, NT–3729.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent a loose splined coupling, spline wear, loss of power to the tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), re-identify the MGB, if appropriate, in accordance with the Accomplishment Instructions, paragraph 2.C., of Eurocopter France Alert Service Bulletin No. 05.40 or 05.99, dated August 7, 2001 (ASB), as applicable. Re-identifying a MGB in accordance with the Accomplishment Instructions, paragraph 2.C., of the applicable ASB is terminating action for the requirements of this AD.

(b) Within 10 hours TIS, accomplish the following procedures in accordance with the specified paragraphs of the Accomplishment Instructions of the ASB, except this AD does not require you to return the MGB to PILATUS.

(1) Inspect the magnetic drain plug and the MGB oil filter for a rust-colored deposit in accordance with paragraph 2.B.1.a) of the applicable ASB. If a rust-colored deposit is found, replace the MGB with an airworthy MGB before further flight.

(2) Inspect the angular displacement on the MGB output flange in accordance with paragraph 2.B.1.b) of the applicable ASB. If the angular displacement is 1 millimeter (0.039 inch) or more, replace the MGB with an airworthy MGB before further flight.

(3) Take an oil sample and drain the MGB in accordance with paragraph 2.B.1.c) of the applicable ASB. If the oil is rust-colored, replace the MGB with an airworthy MGB before further flight. If the oil is not rust-colored, store the sample.

(c) Between 40 and 50 hours TIS, accomplish the requirements of paragraph (b)(2) of this AD and take an oil sample from the MGB. If the oil is rust-colored, replace the MGB with an airworthy MGB before further flight. If the oil is not rust-colored, store the last sample.

(d) At intervals not to exceed 10 hours TIS, accomplish the requirements of paragraph (b)(1) of this AD.

(e) At each oil change, accomplish the requirements of paragraphs (b) and (c) of this AD, and compare the oil sample to the previous sample. If the oil is rust-colored, replace the MGB with an airworthy MGB before further flight. If the color is unchanged, store the last sample for future comparison.

(f) 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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group, Rotorcraft Directorate.

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

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

(h) The modifications and inspections shall be done in accordance with the Accomplishment Instructions, paragraphs 2.B.1.a), 2.B.1.b), 2.B.1.c), and 2.C, of Eurocopter France Alert Service Bulletin No. 05.40 or 05.99, as applicable. Both service bulletins are dated August 7, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on October 31, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–18–51, issued August 31, 2001, which contained the requirements of this amendment.

Note 3: The subject of this AD is addressed in Direction Generale de L'Aviation Civile (France) ADs T2001–366–059(A), T2001–367–062(A), and T2001–368–045(A), all dated August 13, 2001.

Issued in Fort Worth, Texas, on October 3, 2001.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–25694 Filed 10–15–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 3728]

Visas: Nonimmigrant Classes: Irish Peace Process Cultural and Training Program Visitors, Q Classification

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule removes from the existing interim regulation on the issuance of visas in the Q–2 nonimmigrant visa category the requirements for qualification of a program participant in the Irish Peace Process Cultural and Training Program (IPPCTP) to be considered by the Program Administrator. It also adds new requirements pertaining to the content of the certification letter needed by an alien in order to obtain a visa in the Q–2 category as a participant in the IPPCTP. The existing interim regulation was published on March 17, 2000. The establishment and operation of the IPPCTP was originally published on March 17, 2000. That interim regulation is also being republished, with changes elsewhere in this issue of the **Federal Register.** These changes in the rule are being adopted as a result of a review of the IPPCTP conducted by the Departments of State and Justice during the program's initial program year. The changes are intended to distinguish the responsibilities of consular from those of the Program Administration of the IPPCTP.

DATES: *Effective Date:* This interim rule takes effect on October 16, 2001.

Comment Date: The Department will accept written comments which must be received no later than December 17, 2001.

ADDRESSES: Written comments may be submitted, in duplicate, to H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Room L603–C, SA–1, Department of State, Washington, DC 20520–0106.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Room L603–C, SA–1, Department of State, Washington, D.C. 20520–0106, (202) 663–1204; or e-mail: odomhe@state.gov.

SUPPLEMENTARY INFORMATION:

What Information Is Being Removed from the Q–2 Regulation in Part 41 and Why?

The current regulation pertaining to the Q–2 nonimmigrant visa category is found at 22 CFR 41.57(b). The Department published this rule as an interim final rule with a 60-day period for public comment (65 FR 14768, March 17, 2000). There were no comments received from the public regarding the interim rule. Nevertheless, the Department is making some changes to the interim rule following an interagency review of the IPPCTP during its initial program year. The rule as originally written contained a description of the factual elements that an alien applicant for the IPPCTP must

establish to the satisfaction of the Program Administrator. However, because the determination of those elements is, in the first instance, a responsibility of the Program Administrator under authority delegated to the Administrator by the Department of State, the elements should instead be described in the regulation relating to the structure and operation of the IPPCTP. Therefore, they are being removed from this regulation pertaining to visa issuance and appear in a separate notice that describes structure and operation of the program itself.

What Information Is Being Added to the Q–2 Regulation in Part 41 and Why?

Under the IPPCTP, participants may be selected either from among unemployed persons or from among employed persons whose employers wish them to participate in the IPPCTP in order to receive additional training to enhance their existing job skills. Requirements for participation of the latter group in the IPPCTP were still being considered at the time of the publication of the existing interim rule. Therefore the list of requirements contained in the interim rule for information to be provided in the certification letter did not adequately reflect the information required for this group of participants. The additional requirements for participation of an already employed person in the IPPCTP have now been determined and will be reflected in the requirements for the certification letter by addition of the current employer's name and the interagency group formulating the IPPCTP has determined that the necessary physical residence in Northern Ireland or in a qualifying county of the Republic of Ireland required for participation in the program should be counted backward from the date of the issuance of the letter that certifies the acceptance of the alien into the program. Therefore, that change is also reflected in the portion of the regulation that describes the requirements for the content of the certification letter.

Will Any Other Changes Be Made to the Interim Regulation?

The Department is making one other small change to the interim rule. Section 41.57(b)(ii) will be revised to indicate that the certification letter required as evidence of an alien's acceptance into the IPPCTP will ''establish'' rather than simply ''state'' the alien's qualifications for the program. This will more accurately reflect the fact that the Program Administrator has verified such qualifications and is certifying them to the Department and to immigration and consular officers.

Interim Rule

How Is the Department of State Amending Its Regulations?

In this rule the Department is amending 22 CFR 41.57, in part, by removing part of the existing text relating to the requirements for the Q–2 Program Administrator in issuing the certification letter for the purpose of qualifying an alien for participation in the IPPCTP. The Department is publishing this rule in conjunction with a companion rule at 22 CFR 139 in which more accurately reflecting the administrative authorities relevant to implementation of the IPPCTP. The interim rule on the establishment and operation of IPPCTP was published originally at 65 FR 14764, March 17, 2000. The Department is also amending 22 CFR 41.57 by adding to the required content of the program certification letter certain information related to the employment in Ireland or Northern Ireland or already employed program participants. The rule establishes the issuance date of the certification letter as the date prior to which the length of physical residence of the applicant letter, and by changing the language regarding the certification letter to reflect the fact that the Program Administrator has established the alien's qualifications for participation in the IPPCTP.

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule, with a provision for public comments, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The Department decided that there was not enough time to issue a proposed rule with request for comments as the Irish Peace Process Cultural and Training Program is limited by law to a period that has already begun (FY 2000 through FY 2005, *i.e.,* October 1, 1999 through September 30, 2005). Publication of this regulation as an interim rule will expedite implementation of Public Law 105–319 that this already in effect and allow eligible aliens to apply for an participate in this program as soon as possible in light of the statutory expiration of the program on October 1, 2005.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b), has review this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. Participation in the Irish Peace Process Cultural and Training Program Act of 1998 is limited to 4,000 individuals annually for three consecutive years. The activities of the participants in the United States will take place in various locations and in a number of sectors of the economy so that no significant economic impact should occur.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12866

The Department of State does not consider this rule, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Therefore, in accordance with the letter to the Department of State of February 4, 1994 from the Director of the Office of Management and Budget, it does not require review by the Office of Management and Budget.

Executive Order 13132

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

Paperwork Reduction Act

This rule involves the collection of information subject to the Paperwork Reduction Act of 1995 by means of two information collections that have been approved by the Office of Management and Budget. The first is OMB # 1405–0018, Nonimmigrant Visa Application; the second is OMB # 1405–0124, Irish Peace Process Cultural and Training Program (IPPCTP) Employer Information Collection.

List of Subjects in 22 CFR Part 41

Aliens, Foreign officials, Passports and visas, Reporting and recordkeeping requirements, Students.

Accordingly, amend 22 CFR part 41 as follows:

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read as follows:

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

2. Amend 41.57 by revising paragraph (b) to read as follows:

§ 41.57 International cultural exchange visitors and visitors under the Irish Peace Process Cultural and Training Program Act (IPPCTPA).

* * * * *

(b) *Trainees under INA section 101(a)(15)(Q)(ii)*—(1) *Requirements for classification under INA section 101(a)(15)(Q)(ii).* A consular officer may classify an alien under the provisions of INA section 101(a)(15)(Q)(ii) if:

(i) The consular officer is satisfied that the alien qualifies under the provisions of that section;

(ii) The consular officer has received a certification letter prepared by a program administration charged by the Department of State in consultation with the Department of Justice with the operation of the Irish Peace Process Cultural and Training Program (IPPCTP) which establishes at a minimum:

(A) The name of the alien's employer in the United States, and, if applicable, in Ireland or Northern Ireland;

(B) If the alien is participating in the IPPCTP as an unemployed alien, that the employment in the United States is in an occupation designated by the employment and training administration of the alien's place of residence as being most beneficial to the local economy;

(C) That the program administrator has accepted the alien into the program;

(D) That the alien has been physically resident in Northern Ireland or in the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal in the Republic of Ireland and the length of time immediately prior to the issuance of the letter that the alien has claimed such place as his or her residence;

(E) The alien's date and place of birth;

(F) If the alien is participating in the IPPCTP as an already employed participant, the length of time immediately prior to the issuance of the letter that the alien has been employed by an employer in the alien's place of physical residence;

(iii) If applicable, the consular officer is satisfied the alien is the spouse or child of an alien classified under INA section 101(a)(15)(Q)(ii), and is accompanying or following to join the principal alien.

(2) *Aliens not entitled to such classification.* The consular officer must suspend action on the alien's application and notify the alien and the designated program administrator described in paragraph (b)(1)(ii) of this section if the consular officer knows or has reason to believe that an alien does not qualify under INA section 101(a)(15)(Q)(ii).

Dated: July 23, 2001.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 01–25597 Filed 10–15–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

22 CFR Part 139

[Public Notice 3723]

Miscellaneous: Irish Peace Process Cultural and Training: Second Interim Rule

AGENCY: Bureau of European and Eurasian Affairs, Department of State.

ACTION: Interim rule.

SUMMARY: The Department issued an interim rule dated March 17, 2000, establishing a training and employment program in the United States for certain residents of Northern Ireland and designated counties of the Republic of Ireland. This program was mandated by Public Law 105–319. The Department has received a number of public comments on the interim rule and has implemented the initial phase of the program. This second interim rule reflects consideration of the comments received and incorporates several amendments based upon that experience.

DATES: *Effective Date:* This interim rule takes effect on October 16, 2001.

Comment Date: The Department will consider written comments upon the rule that are received no later than December 17, 2001.

ADDRESSES: Submit written comments, in duplicate, to the Director, Office of United Kingdom, Benelux and Ireland Affairs, Bureau of European and Eurasian Affairs, Room 4513, Department of State, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Frank Kerber, Officer for Ireland and Northern Ireland Affairs, Bureau of European and Eurasian Affairs, Room 4513, Department of State, Washington, DC 20520.

SUPPLEMENTARY INFORMATION: Irish Peace Process Cultural and Training Program. The Department of State published in the **Federal Register** on March 17, 2000 (65 FR 14764), an interim regulation to implement Public Law 105–319, 112 Stat. 3013, and requested comments. Several comments were received from one organization and will be addressed in this revised rule. Some of these comments also were addressed to companion regulations issued by the Immigration and Naturalization Service (hereafter INS) published concurrently in the **Federal Register** on March 17, 2000. This rule also addresses other issues arising out of experience under the initial interim rule.

What Is the Department's Response to Comments Received?

One comment recommended that employment changes should be considered as the rule rather than exceptional. While recognizing that more flexibility needs to be built into the regulations, the Department believes that, for a program limited in numbers and duration, the basic expectation is that each participant will stay with one employer for the duration of his or her participation. However, this interim rule will make clear that, while a participant may be expected to remain with an approved employer for up to 3 years (the duration of the program), it will allow shorter periods of participation, for example, to accept employment at home and permit one change of approved employment for the duration of stay.

Along the same lines, the comments recommended that the proposed employers of participants ''self-certify'' themselves to facilitate job changes. The Department considers that it continues to be necessary to concentrate jobs for participants in certain locations where cultural and community support is available and to make sure that majority of employers are in the sectors identified by authorities of Northern

Ireland or the Republic of Ireland, and that individual certification of employers is the best way to carry out that policy.

Another comment suggested that the regulations did not provide for adequate oversight of the Program Administrator. The Department believes that such oversight of the contractor is properly a responsibility and authority of the agency procurement officers; however, the Department is proposing some changes from the interim rule to spell out in more detail what is expected of the Program Administrator. One such requirement will be to provide training to participants in personal and professional development, including conflict resolution, as well as to encourage participants to undertake such training.

A specific comment addressed to the INS regulations was to change the point at which the maximum age of 35 is applied from time of admission to time of issuance of a visa. This would affect Department of State regulations as well, and we believe that the recommendation must be rejected because the statutory numerical limitation is based upon admissions, and the interval between visa issuance and admission depends upon so many factors that compliance with the ceiling would be problematic.

As indicated earlier, the basic expectation is that participants will stay with one employer for the duration of the program for each individual. Job opportunities in other sectors (when need for such skills has been identified by FAS or T & EA) or locations may be identified as eligible for participation in the program, and the Department proposes to expand the eligible sectors and locations from time to time by public notice in the **Federal Register**. For participants coming from employment in Ireland or Northern Ireland for whom definite post-program employment opportunities back home have been identified, jobs with different employers or outside the current locations or sectors may be authorized by the Program Administrator. What other changes are being proposed in the Department of State regulations?

Experience suggests that there has been some misunderstanding about the consequences of termination of approved employment, and the Department proposes to amend the interim regulation to make clear that termination of employment for cause results in termination of participation in the program and the participant is expected to leave the United States within 10 days after employment has terminated and the Administrator determines that employment was properly ended; however, employers will be required to consult with the Program Administrator prior to terminating employment for cause (such as failure to report to work or refusal to observe work-place safety as opposed to such events as employer downsizing). The Program Administrator will be expected to counsel the employer and the participant during this period, but the the Program Administrator's decision (normally to be made within two business days after termination of employment) as to whether separation for cause is justified will not be subject to appeal. For termination of employment other than for cause, the participant will have a period of 30 days to obtain alternative employment from another approved employer or reasonable prospect of such employment; failing that, the participant again is expected to leave the United States immediately.

In addition to continuation of approved employment, participants will be expected to undertake personal and professional development training, including conflict resolution, and to observe the program's rules of conduct.

The Department therefore proposes to amend the interim rule to require that, before the Program Administrator issues a certification letter to participate in the program, each participant shall read and sign a code of conduct, or, if a certification letter has been delivered to the participant, as soon as possible thereafter. The code explains what conduct is termination for cause and sets forth other actions that could cause termination of participation in the program. The code of conduct has been developed by the Department of State and INS, working with the Training and Employment Agency of the Republic of Ireland (FAS) and the Training and Employment Agency of Northern Ireland (T&EA), and may be modified from time to time in light of experience. Violation of the code of conduct or the Program Administrator's rules may result in termination from the program.

The amended rule will also specify other required components of the certification letter (replacing that presently set forth in 22 CFR 41.57(b)(ii)): name of participant's employer in the U.S., the employment is in an occupation designated by the appropriate training and employment administration of the participant's place of residence as being most beneficial to the local economy (except when employment is by approved nomination under section 139.5(d)(2)), the Program Administrator has registered the participant in the program, and the participant has been physically resident in Northern Ireland or the designated counties of the Republic of Ireland for the prescribed length of time (5 months unless otherwise authorized) prior to the issuance of the certification letter.

The regulations will also be amended to permit a new program for participation by students pursuing university or other further or higher education certificates in Northern Ireland to obtain work experience required for that certification.

What Are the Specific Amendments to the Interim Regulations?

Section 139.3, pertaining to Department of State responsibilities, will be amended to provide that the Department, upon recommendation of the Program Administrator or its own motion, will add or remove employers from the list of approved employers, and may authorize change of sector or, in the case of participants under section 139.5(d)(2), of location. The Department will also announce additions or deletions of target economic sectors and geographic areas for job/training opportunities by publication of notice in the **Federal Register**.

Section 139.4, pertaining to Program Administrator responsibilities, will be amended in several respects. The Program Administrator will be expected to recommend addition to, or deletion from, established target economic sectors and geographic areas of job/training opportunity. The Program Administrator will be given specific responsibilities with respect to participants, specifically to make available training in personal and professional development; to mediate when notified by an employer of a case of termination for cause; to give written notification to the Department of State and INS when it exercises its authority to terminate a participant from the program, learns that a participant has dropped out, or that there has been a change of employer; and to notify the Department and INS of the departure of participants from the United States. The Program Administrator will be given the following additional guidance: when to terminate a participant from the program; to give appropriate notice of certain actions; for participants already in the United States who have changed employment, to withhold approval to make further changes; to conduct an exit interview of terminated participants and retrieve their certification letters; and to maintain its data base (to which the Department and INS will have access) but transfer it to the Department after termination of the program.

Section 139.5, pertaining to selection of trainees, will be amended to clarify that it contains requirements for continued participation as well as selection. It also will provide for participant agreement to a code of conduct. Participants will be required to have continuous, adequate health insurance for mutual protection against illness or accident. For a local employer in Northern Ireland or Ireland to nominate a participant, the participant must have work experience of not less than 90 days (unless otherwise authorized) with that employer, who is to identify the US employer and the type of training in the U.S. and to justify the length of that training. The nominating employer must set forth the mutual benefits and guarantee a job offer to the participant upon his or her return from the US. Section 135(d)(2) would be amended to include students pursuing university or other further or higher education certificates in Northern Ireland to be sponsored by their educational institution without regard to the otherwise applicable requirements for sponsoring employers—actual employment and offer of employment upon return to Northern Ireland. The rule will also be amended to require that an applicant has been physically present in the eligible areas for at least five months prior to the date of the certification letter. The rule will clarify when a participant will be terminated and state the participant's obligation to depart the US after termination. Finally, the section will be amended to permit reinstatement with the approval of Department, in consultation with INS, in limited circumstances.

Section 139.6, pertaining to requests to participate, will be amended to make clear that neither FAS, T & EA, nor the Program Administrator will consider requests from a former participant. It also provides that an employee sponsored by a current employer in Northern Ireland or Ireland must have experience not less than 90 days (unless otherwise authorized) with that employer.

Section 139.7, pertaining to employer responsibilities, will be amended to make clear that an employer will notify the Program Administrator of intention to terminate a participant for cause, with reasons, and provide a reasonable opportunity for the Program Administrator to mediate any dispute. The compensation requirements will also be made more specific. It will also be amended to permit employment in other employment sectors or geographic areas for participants who have been nominated by a current employer in Ireland or Northern Ireland with whom there is an existing work relationship.

As noted above in section 139.3, preferred economic sectors for participants as set forth in section 139.8 will be by public notice published in the **Federal Register**. It is anticipated that new target areas, such as construction, may be added to those initially authorized or authorized on a case-by-case basis.

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule, with a provision for public comments, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The Department decided that there was not enough time to issue a proposed rule with request for comments as the Irish Peace Process Cultural and Training Program is limited by law to a period that has already begun (FY 2000 through FY 2005, i.e., October 1, 1999, through September 30, 2005). Publication of this regulation as an interim rule will expedite implementation of Public Law 105–319 that is already in effect and allow eligible aliens to apply for and participate in this program as soon as possible in light of the statutory expiration of the program on October 1, 2005.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. section 605(b)), the Department of State has reviewed this rule and certifies that it will not have a significant economic effect on a substantial number of small entities. Participation in the program is limited to 4000 individuals annually for three consecutive years. The activities of the participants will take place in multiple locations and economic sectors so that no significant economic impact should occur.

Unfunded Mandates Reform Act of 1995

This rule will not include any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million or more, or increased expenditures by the private sector of $100 million or more. Therefore, the requirements of the Unfunded Mandates Reform Act of 1995 do not apply here.

Small Business Regulatory Enforcement Fairness Act of 1996.

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996.

Executive Orders 12866 and 13132

Although exempted from Executive Order 12866, this rule has been reviewed to ensure consistency with its principles and is not a ''significant regulatory action'' under that order. This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

Paperwork Reduction Act

This rule involves collection of information subject to the Paperwork Reduction Act of 1995 by means of two information collections that have been approved by the Office of Management and Budget. The first is OMB # 1405–0018, Nonimmigrant Visa Application; the second is OMB # 1405–0124. Irish Peace Process Cultural and Training Program (IPPCTP) Employer Information Collection.

List of Subjects in 22 CFR Part 139

Aliens, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, amend 22 CFR Part 139 as follows:

PART 139—[AMENDED]

1. The authority citation for part 139 is revised to read as follows:

Authority: Pub. L. 105–319, 112 Stat. 3013; 22 U.S.C. 2651a.

2. Section 139.3 is amended as follows:

a. Remove ''and'' at the end of paragraph (d);

b. Remove the period at the end of paragraph (e) and add a semicolon in its place;

c. Add paragraphs (f) and (g) to read as follows:

§ 139.3 Responsibilities of the Department.

* * * * *

(f) Upon recommendation of the Program Administrator or on its own motion, the Department may add or remove employers from the approved list and may authorize change of economic sector and geographic area for participants; and

(g) By public notice in the **Federal Register**, will add or delete preferred target economic sectors and geographic areas for job/training opportunities.

3. Section 139. 4 is amended as follows:

a. In paragraph (a), by adding a new sentence at the end of the paragraph;

b. In paragraph (c)(2), by adding a new sentence at the end of the paragraph;

c. In paragraph (e), by adding three new sentences at the end of the paragraph;

d. In paragraph (g), by adding a new sentence at the end of the paragraph;

e. In paragraph (h), by adding a new sentence at the end of the paragraph; and

f. By adding new paragraph (i).

The additions read as follows:

§ 139.4 Responsibilities of the Program Administrator.

(a) * * * The Program Administrator, from time to time, will recommend to the Department of State the addition or deletion of, or exceptions to, designated economic sectors and geographic areas for participants.

* * * * *

(c) * * *

(2) * * * Unless otherwise authorized, the Program Administrator may approve only one change of approved employer per participant per period of stay.

* * * * *

(e) * * * Issuing replacement certification documents to participants whose original has been lost, stolen, or mutilated. In addition, making available training in personal and professional development to participants and verifying that such training has been undertaken; arranging with approved employers as a condition of assignment of participants that each such employer: will give the Program Administrator advance notice of intention to discharge a participant for cause and the reasons therefor, will permit the Program Administrator an opportunity to mediate between the employer and the participant; and give the Program Administrator written notice when employment of a participant is terminated and the reason. The Program Administrator, if mediation is not successful and the participant is terminated for cause in the judgment of the employer, will promptly (normally within two business days after termination of employment) reach a decision on validity of the cause for the employer's decision and, if the decision is favorable to the participant, may assist in finding another approved employment.

* * * * *

(g) * * * In particular, promptly (normally within five business days) giving a written report to the Department of State and the Immigration and Naturalization Service upon each occurrence of any of the following: termination or change of approved employment of a participant, withdrawal from participation in the program, results of an exit interview with the participant, and the departure from the United States of any participant upon conclusion of participation in the program.

(h)* * * The Program Administrator will retain this data base for at least five years after termination of the Program, or transfer the data base to the Department of State, and provide the Department of State and the Immigration and Naturalization Service access to that data base while under its control.

(i) The Program Administrator within 5 business days is to terminate a participant from the program when: the participant is terminated from approved employment for cause or fails to obtain another approved employment within 30 days of leaving current employment (not having been separated for cause); the participant, without good cause, fails to comply with program regulations, including rules of the Program Administrator and the code of code of conduct; or the participant engages in employment that has not been authorized under the program or fails to maintain adequate, continuous health coverage (see § 139.5). The Program Administrator shall promptly (normally within five business days) give written notice to the Department of State, the Immigration and Naturalization Service, FAS or T & EA as appropriate, and to the consulate that issued a visa to the participant, that the participant has been terminated and the reason therefor. The Program Administrator shall conduct an exit interview with any participant leaving the program to assess the experience and to obtain return of the participant's certification letter.

4. Section 139.5 is amended as follows:

a. By revising the introductory text;

b. In paragraph (b), by removing ''three'' and adding, in its place ''five''; and by removing ''prior to applying to the Program'' and adding, in its place ''prior to the date of certification'';

c. By revising paragraph (d)(2);

d. By adding new paragraphs (e) and (f).

The revisions and additions read as follows:

§ 139.5 Qualifications required for selection as a trainee.

To be a program participant in the IPPCTP, a person must:

* * * * *

(d) * * *

(2) Be a currently employed person whose employer has at least 90 days (unless otherwise authorized) of employment relationship with that person, whose nomination is in writing and contains the following: the employer in the United States, the length and type of occupational training contemplated, a justification for why the length of stay requested is necessary, and the benefits to the nominee and the nominator, including a job offer for the participant upon return to Northern Ireland or Ireland; provided, however, that the Program Administrator may waive the requirements of at least 90 days of employment and for a job offer upon return from a sponsor that is a Northern Ireland institution of further or higher learning for a student in that institution who needs on the job experience to qualify for a degree or certificate from the institution.

(e) Has read, understood, and signed a ''participant code of conduct'' prepared by the Program Administrator in consultation with the Department of State and the Immigration and Naturalization Service and with FAS and T & EA; obtains and maintains adequate, continuous health insurance; is expected to remain with his or her original or other approved employer; and is expected to depart the United States promptly upon termination of participation in the program.

(f) A participant who has been terminated from the program may apply to the Program Administrator for reinstatement, except in the following cases: termination of approved employment for cause, knowingly or willfully failed to obtain or maintain the required adequate and continuous health insurance, engaged in unapproved employment, or has been outside the United States in excess of three consecutive months. In any such case the physical residence requirement may be waived for participants who have been admitted to the United States for the program, and personal and professional development training previously completed need not be repeated; however, all other application requirements for a participant do apply, and the Program Administrator, with the approval of the Department of State in consultation with the Immigration and Naturalization Service, and upon being satisfied that reinstatement serves the purpose of the program, may issue a new or amended certification letter.

5. Section 139.6 is amended by adding after ''employer'' the words ''having at least 90 days (unless otherwise authorized) of employment relationship with that participant''; and by adding a new sentence at the end of the section to read as follows:

§ 139.6 Requesting participation in the IPPCTP.

* * * Neither FAS, T & EA, nor the Program Administrator are to consider requests from a former participant.

6. Section 139.7 is amended in paragraph (a)(1) by adding after ''Republic of Ireland'' the phrase ''except as otherwise approved by the Program Administrator under § 139.5(d)(2)''; and in paragraph (f) by adding two new sentences at the end of the paragraph to read as follows:

§ 139.7 Qualifications for participation as an employer in the United States.

* * * * *

(f) * * * As a condition of qualification as an employer, undertakes to provide advance notice to the Program Administrator of intention to terminate a participant for cause, with a written statement of reasons, and to provide the Program Administrator a reasonable opportunity to mediate between the employer and the participant, if possible before actual termination, and to offer employment to any selected participant for at least six months. The employer must also undertake in writing to provide no less than the Federal minimum wage and a 40 hour work week or equivalent.

* * * * *

7. Section 139.8 is revised to read as follows:

§ 139.8 Target economic sectors.

Job/Training under the IPPCTP will be authorized for preferred economic sectors prescribed by the Department of State, upon agreement of FAS and/or T&EA. As noted in § 139.3, the list will be published in the **Federal Register**, as will additions or deletions. In the case of participants under § 139.5(d)(2), the Program Administrator, with the approval of the Department of State, is authorized to approve different employers in different economic sectors.

Randolph Bell,

Acting Deputy Assistant Secretary, Bureau of European and Eurasian Affairs, Department of State.

[FR Doc. 01–25598 Filed 10–15–01; 8:45 am]

BILLING CODE 4710–23–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4164; FRL–7081–3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

EFFECTIVE DATE: This final rule is effective on October 31, 2001.

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

FOR FURTHER INFORMATION CONTACT: Marcia Spink, (215) 814–2104, or by e-mail at *spink.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1997 and April 19, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to four of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approval and agreement upon consent orders (Consent Orders or COs) and enforcement order (EO) issued by the Allegheny County Health Department (ACHD). These four sources are located in the Pittsburgh area and consist of Ashland Chemical Company; Hercules, Incorporated (NO_X -emitting installations); Hercules, Incorporated (VOC-emitting processes); and Neville Chemical Company.

On August 10, 2001, EPA published a direct final rule (66 FR 42136) and a companion notice of proposed rulemaking (66 FR 42187) to approve these SIP revisions. On September 7, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On September 20, 2001 (66 FR 48348), we published a timely withdrawal in the **Federal Register** informing the public that the direct final rule did not take effect. We indicated in our August 10, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 42187). This is that subsequent final rule. A description of the RACT determination(s) made for each source was provided in the August 10, 2001 direct final rule and will not be restated here. A summary of the comments submitted by PennFuture germane to this final rulemaking and EPA's responses are provided in Section II of this document.

II. Public Comments and Responses

The Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on twenty proposed rules published by EPA in the **Federal Register** between August 6 and August 24, 2001 to approve case-by-case RACT SIP submissions from the Commonwealth for NO_X and/or VOC sources located in the Pittsburgh area. PennFuture's letter includes general comments and comments specific to EPA's proposals for certain sources. A summary of those comments and EPA's responses are provided below.

A. Comment: PennFuture comments that EPA has conducted no independent technical review, and has prepared no technical support document to survey potential control technologies, determine the capital and operating costs of different options, and rank these options in total and marginal cost per ton of NO_X and VOC controlled. In citing the definition of the term ''RACT,'' and the Strelow Memorandum [Roger Strelow, Assistant Administrator for Air and Waste Management, EPA, December 9, 1976, cited in *Michigan* v. *Thomas,* 805 F.2d 176, 180 (6th Cir. 1986) and at 62 FR 43134, 43136 (1997)], PennFuture appears to

comment that in every situation, RACT must include an emission rate. PennFuture asserts that EPA should conduct its own RACT evaluation for each source, or at a minimum document a step-by-step review demonstrating the adequacy of state evaluations, to ensure that appropriate control technology is applied. The commenter also believes that EPA's failure to conduct its own independent review of control technologies has resulted in our proposing to approve some RACT determinations that fail to meet the terms of EPA's own RACT standard.

Response: On March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of* NO_X *and VOCs,* requires subject facilities to submit a RACT plan proposal to both the Pennsylvania Department of Environmental Protection (DEP) and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements.* Under subsection 129.92, that proposal is to include, among other information: (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92 (b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision.

The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by-case RACT determinations by the DEP. Rather, EPA stated that ''* * * RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources.''

On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. In that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. EPA received no public comments on its action and that final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status. On August 24, 2001 (66 FR 44578), EPA proposed to remove the limited nature of its approval of Pennsylvania's generic RACT regulation in the Pittsburgh area. EPA received no public comments on that proposal. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Pittsburgh-Beaver area *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

EPA agrees that it has an obligation to review the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA does not agree, however, that this obligation to review the case-by-case RACT determinations submitted by Pennsylvania necessarily extends to our performing our own RACT analyses, independent of the sources' RACT plans/analyses (included as part of the case-by-case RACT SIP revisions) or the Commonwealth's analyses. EPA first reviews this submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT for a specific source. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then EPA may add additional EPA-generated analyses to the record.

While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (The publication numbers for these CTG documents may be found at *http://www.epa.gov/ttn/catc/dir1/ctg.txt).*

EPA disagrees with PennFuture's general comment that our failure to conduct our own independent review of control technologies for every case-by-case RACT determination conducted by the Commonwealth has resulted in our proposing to approve some RACT determinations that fail to meet the terms of our own RACT standard. PennFuture submitted comments specific to the case-by-case RACT determinations for only three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island stations. EPA summarizes those comments and provides responses in the final rule pertaining to those sources.

B. Comment: PennFuture comments that when EPA reviewed Pennsylvania's RACT program, it noted that Pennsylvania coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour ''are some of the largest NO_X emitting sources in the Commonwealth and in the Northeast United States'' [63 FR 13789, 13791 (1998)] and as such should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93) to guarantee that sources would achieve quantifiable emissions reductions under the RACT program. PennFuture goes on to comment that because EPA has not conducted and

documented a technical review of Pennsylvania case-by case RACT submissions, EPA has not demonstrated that these large boilers are subject to ''numeric emission limitations'' under RACT. EPA must conduct a thorough RACT evaluation or review for each such source, and must document the application of numeric emission limits and quantifiable reductions for each coal-fired boiler with a rated heat input of over 100 million Btu per hour.

Response: Circumstances may exist wherein a state could justify otherwise, however, in general, EPA agrees with PennFuture that coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93).

As provided in the response found in II. A, EPA does not agree that it must conduct its own technical analysis of each of the case-by-case RACT determinations submitted for each RACT source in order to document that its RACT requirements include numeric emission limitations. That determination can be made by EPA when it reviews the plan approval, consent order, or permit issued to such a source as submitted by the Commonwealth as SIP revision. PennFuture's comment did not point to a specific instance where a RACT plan approval, consent order or permit imposing RACT on a coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour did, in fact, lack a numerical emission limitation(s). Nonetheless, pursuant to PennFuture's comment, EPA has re-examined all of the case-by-case RACT SIP submissions made by the Commonwealth for such sources located in the Pittsburgh area. That re-examination, combined with information provided by the Commonwealth, indicates that each case-by-case RACT plan approval, consent order and/or permit for each coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour includes a numeric emission limitation. A listing of each source, its plan approval, consent order and/or permit number and its numerical emission limitation has been placed in the Administrative Records for the case-by-case RACT rulemakings for the Pittsburgh area.

C. Comment: PennFuture asserts that the Commonwealth has not adopted and submitted category RACT rules for all VOC source categories for which federal control technique guidelines (CTGs) have been issued. The commenter refers to Appendix 1 of the Technical Support Document (dated May 14, 2001), prepared by EPA in support of its proposed rule to redesignate the Pittsburgh-Beaver Valley Ozone Nonattainment Area (66 FR 29270), to assert that EPA has failed to require the Commonwealth to submit VOC RACT rules for certain categories of sources. PennFuture specifically names source categories such as equipment leaks from natural gas/gas processing plants, coke oven batteries, iron and steel foundries, and publically owned treatment works and asserts that the Commonwealth has neglected a statutory requirement to adopt category RACT regulations for these and 14 other unnamed VOC source categories.

Response: EPA has not issued CTGs for coke oven batteries, iron and steel foundries and publically owned treatment works. The Appendix 1, referred to by the commenter, lists CTG covered categories as well as source categories taken from two STAPPA/ALAPCO documents entitled, ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act—A Menu of Options'' (September 1993) and ''Controlling Nitrogen Oxides Under the Clean Air Act—A Menu of Options'' (July 1994). The categories referenced by PennFuture are not VOC categories for which EPA has issued CTGs, but were included in Appendix A as examples of some of the types of sources that could be subject to Pennsylvania's generic RACT regulations.

The Commonwealth is under no statutory obligation to adopt RACT rules for source categories for which EPA has not issued a CTG. In fact, CTGs do not exist for all but one of the categories to which the commenter explicitly refers.

The Act requires that states adopt regulations to impose RACT for ''major sources of VOC,'' located within those areas of a state where RACT applies under Part D of the Act [182(b)(2)(C)]. This is referred to as the non-CTG VOC RACT requirement. Moreover, EPA disagrees that there is a statutory mandate that a state adopt a source category RACT regulation even for a source category where EPA has issued a CTG. There are two statutory provisions that address RACT for sources covered by a CTG. One provides that states must adopt RACT for ''any category of VOC sources'' covered by a CTG issued prior to November 15, 1990 [182(b)(2)(A)]. The other provides that states must adopt VOC RACT for all ''VOC sources'' covered by a CTG issued after November 15, 1990 [182(b)(2)(B)]. EPA has long interpreted the statutory RACT requirement to be met either by adoption of category-specific rules or by source-specific rules for each source within a category. When initially established, RACT was clearly defined as a case-by-case determination, but EPA provided CTG's to simplify the process for states such that they would not be required to adopt hundreds or thousands of individual rules. See Strelow Memorandum dated December 9, 1976 and 44 FR 53761, September 17, 1979. EPA does not believe that Congress' use of ''source category'' in one provision of section 182(b)(2) was intended to preclude the adoption of source-specific rules.

Thus, where CTG-subject sources are located within those areas of a state where RACT applies under Part D of the Act, the state is obligated to impose RACT for the same universe of sources covered by the CTG. However, that obligation is not required to be met by the adoption and submittal of a source category RACT rule. A state may, instead, opt to impose RACT for such sources in permits, plan approvals, consent orders or in any other state enforceable document and submit those documents to EPA for approval as source-specific SIP revisions. This option has been exercised by many states, and happens most commonly when only a few CTG-subject sources are located in the state. The source-specific approach is generally employed to avoid what can be a lengthy and resource-intensive state rule adoption process for only a few sources that may have different needs and considerations that must be taken into account.

As stated earlier, there is one source category explicitly included in PennFuture's comment for which EPA has issued a CTG, namely natural gas/gas processing plants. The Commonwealth made a negative declaration to EPA on April 13, 1993, stating that as of that date there were no applicable sources in this category. Therefore, the Commonwealth did not adopt a category RACT regulation for natural gas/gas processing plants.

D. Comment: PennFuture cites EPA correspondence [letter from Marcia Spink, EPA, to James Salvaggio, DEP, December 15, 1993] to the Commonwealth which states that establishing any dollar figure in RACT guidance will not provide for the ''automatic'' selection or rejection of a control technology or emission limitation as RACT for a source or source category. With regard to the Pennsylvania DEP's intent to finalize a NO_X RACT Guidance Document for implementation of its NO_X RACT regulation, EPA's 1993 letter stated that the document could improperly be used

to establish ''bright line'' or ''cook-book'' approaches, particularly for a regulation applicable to many source categories and suggested that if the guidance document must include dollar figures/ton, it provide approximate ranges by source category. PennFuture comments that DEP issued its ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions,'' March 11, 1994, and on pp. 8–9 states that the acceptable threshold is $1500 per ton, and that this figure applies to ''all source categories.'' PennFuture notes that EPA later objected to the $1500 per ton methodology as ''not generically acceptable to EPA'' [letter from Thomas Maslany, EPA, to James Salvaggio, DEP, June 24, 1997] and further stated in a **Federal Register** notice that a ''dollar per ton threshold'' is ''inconsistent with the definition of RACT'' [62 FR 43134, 37–38 (1997)].

PennFuture comments that EPA is proposing to approve RACT determinations based on a cost per ton method that EPA had previously rejected, and according to its own clearly expressed standard, EPA must not approve RACT determinations by Pennsylvania DEP that apply this $1500 per ton threshold. The commenter states that PennFuture's review of several of the current DEP evaluations indicate that the Commonwealth applied this standard and provides the examples of Duquesne Light—Elrama (auxiliary boiler); Allegheny Ludlum—Washington (formerly Jessop Steel). PennFuture asserts EPA must reject all Pennsylvania RACT determinations applying the standard of $1500 per ton, or any other ''bright line'' approach, as failing to follow EPA procedures established for Pennsylvania RACT.

Response: EPA still takes the position that a single cost per ton dollar figure may not, in and of itself, form the basis for rejecting a control technology, equipment standard, or work practice standard as RACT. The Technical Support Document prepared by EPA in support of its March 23, 1998 rulemaking [63 FR 13789] clearly indicates that the Commonwealth's document, ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions.'' March 11, 1994, had not been included as part of the SIP submission of the Commonwealth's generic regulation and, therefore, had not been approved by EPA. EPA further notes that the Administrative Record of the March 23, 1998 rulemaking [63 FR 13789], in addition to the correspondence cited by PennFuture, also includes correspondence from DEP to EPA [letter from James Salvaggio, DEP to David Arnold, EPA, September 10, 1997] stating that DEP's RACT guidance document does not establish a maximum dollar per ton for determining the cost effectiveness for RACT determinations and notes that the DEP's $1500 per ton cost effectiveness is a target value and not an absolute maximum. For example, in its analyses of the cost effectiveness of RACT control options submitted by DEP as part of the case-by-case SIP revision for Peoples Natural Gas (PNG) Valley Compressor Station's turbo charged lean burn IC engine (see the Administrative Record for 66 FR 43492), the Commonwealth included DEP interoffice memoranda (Thomas Joseph to Krishnan Ramamurthy, July 14, 1994 and Krishnan Ramamurthy to Thomas McGinley, Babu Patel, Ronald Davis, Richard Maxwell, and Devendra Verma, July 15, 1994) which spoke directly to the $1500/ton dollar figure as being a guideline and not an upper limit. These memoranda explain that although PNG initially proposed intermediate original equipment manufacturer (OEM) combustion controls which would have reduced NO_X emissions from 254.7 tons per year to 115 tons per year (by 55%) at a cost of $1355 per ton reduced, DEP required the installation of an OEM lean combustion modification that reduced NO_X emissions from 254.7 tons per year to 76 tons per year (by 69%) at a cost of $1684 per ton reduced. The DEP's July 15, 1994 interoffice memorandum says of the PNG RACT determination which exceeded the cost effectiveness screening level of $1500 per ton '' Tom's (Joseph) insistence for the next more stringent level of control than the company's chosen level in the case of PNG was consistent with EPA Region III's sentiment that establishing any dollar figure in RACT guidance will not provide for an ''automatic'' rejection of a control technology as RACT for a source.''

In no instance, including that for Duquesne Light—Elrama (auxiliary boiler) and Allegheny Ludlum—Washington (formerly Jessop Steel), has EPA proposed to approve a RACT determination submitted by the Commonwealth which was based solely on a conclusion that controls that cost more than $1500/ton were not required as RACT. As explained in the response provided in section II. A. of this document, EPA conducts its review of the entire case-by-case RACT SIP submittal including the source's proposed RACT plan and analyses, Pennsylvania's analyses and the RACT plan approval, consent order or permit itself to insure that the requirements of the SIP-approved generic RACT have been followed. These analyses not only evaluate and consider the costs of potential control options, but also evaluate their technological feasibility.

E. Comment: PennFuture comments that any emission reduction credits (ERCs) earned by sources subject to RACT must be surplus to all applicable state and federal requirements. Under Pennsylvania law, ERCs must be surplus, permanent, quantified, and Federally enforceable. 25 Pa.Code 127.207(1). As to the requirement that ERCs be surplus, the Pennsylvania Code states: ERCs shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emission limitation or compliance plans. Emission reductions necessary to meet NSPS, LAER, RACT, Best Available Technology, BACT and permit or plan approval emissions limitations or another emissions limitation required by the Clean Air Act or the [Air Pollution Control Act] may not be used to generate ERCs. 25 Pa.Code 127.207(1)(i). To be creditable, ERCs must surpass not only RACT requirements but a host of other possible sources of emission limits. PennFuture comments that some of the RACT evaluations at issue in the current EPA notices purport to establish RACT as a baseline for future ERCs. PennFuture does acknowledge that EPA notes in its boilerplate for the notices, that Pennsylvania and EPA have established a series of NO_X-reducing rules, including the recent Chapter 145 rule, to reduce NO_X at large utility and industrial sources. See, for example, 66 FR 42415, 16–17 (August 13, 2001). Because any ERCs must be surplus to the most stringent limitation applicable under state or federal law as described in the Pennsylvania Code provision set forth above, DEP and EPA must not approve ERCs unless they surpass all such limitations in addition to any limits set by RACT.

Response: EPA agrees with this comment by PennFuture. The approval of a case-by-case RACT determination, in and of itself, does not establish the baseline from which further emission reductions may be calculated and assumed creditable under the Commonwealth's SIP-approved NSR and ERC program. Moreover, EPA's review of the Pennsylvania DEP's implementation of its approved SIP-approved NSR and ERC program indicates that the Commonwealth calculates and credits ERCs in accordance with the SIP-approved

criteria for doing so as outlined in PennFuture's comment. No source for which EPA is approving a case-by-case RACT determination should assume that its RACT approval alone automatically establishes the baseline against which it may calculate creditable ERCs.

F. Comment: PennFuture comments that as in the case with Pennsylvania Power—Newcastle, EPA should compare RACT proposals to applicable acid rain program emission limits and control strategies. PennFuture contends that EPA previously disapproved a RACT proposal for the Pennsylvania Power—Newcastle plant [62 FR 43959 (1997); 63 FR 23668 (1998)] and that EPA did so on the basis that the acid rain program requires more stringent emission limits. PennFuture asserts that while EPA had originally proposed to approve this proposal, an analysis of comparable boilers and, especially, a comparison to Phase II emission limits under the acid rain program led EPA to conclude that the RACT proposal emission limits were too lenient. [62 FR at 43961]. Therefore, PennFuture contends that for sources subject to the acid rain program, EPA should consider emissions and control strategies for compliance with acid rain emission limits when evaluating proposals for compliance with RACT.

Response: Title IV of the Act, addressing the acid rain program, contains NO_X emission requirements for utilities which must be met *in addition to* any RACT requirements (see NO_X Supplement to the General Preamble at 57 FR 55625, November 25, 1992). The Act provides for a number of control programs that may affect similar sources. For example, new sources may be subject to new source performance standards (NSPS), best available control technology (BACT), and lowest achievable emission rate (LAER). Other controls, under such programs as the acid rain program or the hazardous air pollutant program may also apply to sources. However, the applicability of these other requirements, which are often more stringent than RACT, do not establish what requirements must apply under the RACT program. While these programs may provide information as to the technical and economic feasibility of reduction programs for RACT, there is no presumption that acid rain controls should be mandated as RACT.

EPA stated in the final disapproval of the NO_X RACT determination for PPNC [63 FR at 23669], that the discussion concerning average emission rates for boilers with respect to the acid rain program requirements were included in order to provide a context for EPA's proposed disapproval. EPA made clear in its August 18, 1997 proposed disapproval of Pennsylvania Powers'—Newcastle (PPNC) RACT determination, that the basis for disapproval was a comparison between PPNC's boilers and other similar combustion units, not acid rain limits. In fact, EPA stated in the August 18, 1997 proposed disapproval that ''Without additional knowledge or information, it would be erroneous and premature to conclude that the limits in the acid rain permit are RACT.'' [62 FR at 43961]. EPA clearly stated in the final disapproval for PPNC that it did not use acid rain permit limits, or Pennsylvania's participation in any other NO_X control program, to determine PPNC RACT approvability [63 FR at 23670]. Nor has EPA intended to use participation in NO_X control programs including acid rain, in determining RACT for PPNC or any other subject sources. EPA also stated that the April 30, 1998, PPNC disapproval was based on the absence of pertinent information regarding a computerized combustion optimization system through an enforceable permit, not comparison of acid rain permit limits.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP on behalf of ACHD to establish and require VOC and NO_X RACT for four major sources located in the Pittsburgh area. EPA is approving these RACT SIP submittals because ACHD established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The ACHD has also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 **note**) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from four individual sources in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(166) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(166) Revisions pertaining to VOC and NO_X RACT for Ashland Chemical Company; Hercules, Incorporated; and Neville Chemical Company located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on July 1, 1997 and April 19, 2001.

(i) *Incorporation by reference.*

(A) Letters dated July 1, 1997 and April 19, 2001, submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and NO_X RACT determinations.

(B) Plan Approval and Agreement Upon Consent Orders (COs) and an Enforcement Order (EO) for the following sources:

(*1*) Ashland Chemical Company, CO 227, effective December 30, 1996, except for condition 2.5.

(*2*) Hercules, Incorporated, EO 216, effective March 8, 1996.

(*3*) Hercules, Incorporated, CO 257, except for condition 2.5, effective January 14, 1997, including amendments to CO 257, effective November 1, 1999.

(*4*) Neville Chemical Company, CO 230, effective December 13, 1996, except for condition 2.5.

(ii) *Additional materials.* Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations submitted for the sources listed in paragraph (c)(166)(i)(B) of this section.

* * * * *

[FR Doc. 01–25730 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4168; FRL–7081–2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

EFFECTIVE DATE: This final rule is effective on October 31, 2001.

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

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (215) 814–2104 or by e-mail at *spink.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

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

Steel Clairton Works; USX Corporation, US Steel Group, Edgar Thomson Works; USX Corporation, US Steel Group, Irvin Works; Washington Steel Corporation; Wheeling-Pittsburgh Steel Corporation; Koppers; Shenango, Inc.

On August 21, 2001, EPA published a direct final rule (66 FR 43788) and a companion notice of proposed rulemaking (66 FR 43823) to approve these SIP revisions. On September 7, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On September 27, 2001(66 FR 49292), we published a timely withdrawal in the **Federal Register** informing the public that the direct final rule did not take effect. We indicated in our August 20, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 43823). This is that subsequent final rule. A description of the RACT determination(s) made for each source was provided in the August 21, 2001 direct final rule and will not be restated here. A summary of the comments submitted by PennFuture germane to this final rulemaking and EPA's responses are provided in Section II of this document.

II. Public Comments and Responses

The Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on twenty proposed rules published by EPA in the **Federal Register** between August 6 and August 24, 2001 to approve case-by-case RACT SIP submissions from the Commonwealth for NO_X and or VOC sources located in the Pittsburgh area. PennFuture's letter includes general comments and comments specific to EPA's proposals for certain sources. A summary of those comments and EPA's responses are provided below.

A. Comment: PennFuture comments that EPA has conducted no independent technical review, and has prepared no technical support document to survey potential control technologies, determine the capital and operating costs of different options, and rank these options in total and marginal cost per ton of NO_X and VOC controlled. In citing the definition of the term ''RACT,'' and the Strelow Memorandum [Roger Strelow, Assistant Administrator for Air and Waste Management, EPA, December 9, 1976, cited in *Michigan* v. *Thomas,* 805 F.2d 176, 180 (6th Cir. 1986) and at 62 FR 43134, 43136 (1997)], PennFuture appears to comment that in every situation, RACT must include an emission rate. PennFuture asserts that EPA should conduct its own RACT evaluation for each source, or at a minimum document a step-by-step review demonstrating the adequacy of state evaluations, to ensure that appropriate control technology is applied. The commenter also believes that EPA's failure to conduct its own independent review of control technologies has resulted in our proposing to approve some RACT determinations that fail to meet the terms of EPA's own RACT standard.

Response: On March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of NO_X and VOCs,* requires subject facilities to submit a RACT plan proposal to both the Pennsylvania Department of Environmental Protection (DEP) and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements.* Under subsection 129.92, that proposal is to include, among other information: (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92 (b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision.

The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by case RACT determinations by the DEP. Rather, EPA stated that ''* * * RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources.''

On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. In that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. EPA received no public comments on its action and that final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status. On August 24, 2001 (66 FR 44578), EPA proposed to remove the limited nature of its approval of Pennsylvania's generic RACT regulation in the Pittsburgh area. EPA received no public comments on that proposal. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Pittsburgh-Beaver area *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

EPA agrees that it has an obligation to review the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA does not agree, however, that this obligation to review the case-by-case RACT determinations submitted by Pennsylvania necessarily extends to our performing our own RACT analyses, independent of the sources' RACT plans/analyses (included as part of the case-by case RACT SIP revisions) or the Commonwealth's analyses. EPA first reviews this submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT for a specific source. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the

state, then EPA may add additional EPA-generated analyses to the record.

While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (The publication numbers for these CTG documents may be found at *http://www.epa.gov/ttn/catc/dir1/ctg.txt).*

EPA disagrees with PennFuture's general comment that our failure to conduct our own independent review of control technologies for every case-by-case RACT determination conducted by the Commonwealth has resulted in our proposing to approve some RACT determinations that fail to meet the terms of our own RACT standard. PennFuture submitted comments specific to the case-by-case RACT determinations for only three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island stations. EPA summarizes those comments and provides responses in the final rule pertaining to those sources.

B. Comment: PennFuture comments that when EPA reviewed Pennsylvania's RACT program, it noted that Pennsylvania coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour ''are some of the largest NO_X emitting sources in the Commonwealth and in the Northeast United States'' [63 FR 13789, 13791 (1998)] and as such should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93) to guarantee that sources would achieve quantifiable emissions reductions under the RACT program. PennFuture goes on to comment that because EPA has not conducted and documented a technical review of Pennsylvania case-by case RACT submissions, EPA has not demonstrated that these large boilers are subject to ''numeric emission limitations'' under RACT. EPA must conduct a thorough RACT evaluation or review for each such source, and must document the application of numeric emission limits and quantifiable reductions for each coal-fired boiler with a rated heat input of over 100 million Btu per hour.

Response: Circumstances may exist wherein a state could justify otherwise, however, in general, EPA agrees with PennFuture that coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93).

As provided in the response found in II. A, EPA does not agree that it must conduct its own technical analysis of each of the case-by-case RACT determinations submitted for each RACT source in order to document that its RACT requirements include numeric emission limitations. That determination can be made by EPA when it reviews the plan approval, consent order, or permit issued to such a source as submitted by the Commonwealth as SIP revision. PennFuture's comment did not point to a specific instance where a RACT plan approval, consent order or permit imposing RACT on a coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour did, in fact, lack a numerical emission limitation(s). Nonetheless, pursuant to PennFuture's comment, EPA has re-examined all of the case-by-case RACT SIP submissions made by the Commonwealth for such sources located in the Pittsburgh area. That re-examination, combined with information provided by the Commonwealth, indicates that each case-by-case RACT plan approval, consent order and/or permit for each coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour includes a numeric emission limitation. A listing of each source, its plan approval, consent order and/or permit number and its numerical emission limitation has been placed in the Administrative Records for the case-by-case RACT rulemakings for the Pittsburgh area.

C. Comment: PennFuture asserts that the Commonwealth has not adopted and submitted category RACT rules for all VOC source categories for which federal control technique guidelines (CTGs) have been issued. The commenter refers to Appendix 1 of the Technical Support Document (dated May 14, 2001), prepared by EPA in support of its proposed rule to redesignate the Pittsburgh-Beaver Valley Ozone Nonattainment Area (66 FR 29270), to assert that EPA has failed to require the Commonwealth to submit VOC RACT rules for certain categories of sources. PennFuture specifically names source categories such as equipment leaks from natural gas/gas processing plants, coke oven batteries, iron and steel foundries, and publically owned treatment works and asserts that the Commonwealth has neglected a statutory requirement to adopt category RACT regulations for these and 14 other unnamed VOC source categories.

Response: EPA has not issued CTGs for coke oven batteries, iron and steel foundries and publically owned treatment works. The Appendix 1, referred to by the commenter, lists CTG covered categories as well as source categories taken from two STAPPA/ALAPCO documents entitled, ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act—A Menu of Options'' (September 1993) and ''Controlling Nitrogen Oxides Under the Clean Air Act—A Menu of Options'' (July 1994). The categories referenced by PennFuture are not VOC categories for which EPA has issued CTGs, but were included in Appendix A as examples of some of the types of sources that could be subject to Pennsylvania's generic RACT regulations. The Commonwealth is under no statutory obligation to adopt RACT rules for source *categories* for which EPA has not issued a CTG. In fact, CTGs do not exist for all but one of the categories to which the commenter explicitly refers.

The Act requires that states adopt regulations to impose RACT for ''major sources of VOC,'' located within those areas of a state where RACT applies under Part D of the Act [182(b)(2)(C)]. This is referred to as the non-CTG VOC RACT requirement. Moreover, EPA disagrees that there is a statutory mandate that a state adopt a source category RACT regulation even for a source category where EPA has issued a CTG. There are two statutory provisions that address RACT for sources covered by a CTG. One provides that states must adopt RACT for ''any category of VOC sources'' covered by a CTG issued prior to November 15, 1990 [182(b)(2)(A)]. The other provides that states must adopt VOC RACT for all ''VOC sources'' covered by a CTG issued after November 15, 1990 [182(b)(2)(B)]. EPA has long interpreted the statutory RACT requirement to be met either by adoption of category-specific rules or by source-specific rules for each source within a category. When initially

established, RACT was clearly defined as a case-by-case determination, but EPA provided CTG's to simplify the process for states such that they would not be required to adopt hundreds or thousands of individual rules. See Strelow Memorandum dated December 9, 1976 and 44 FR 53761, September 17, 1979. EPA does not believe that Congress' use of ''source category'' in one provision of section 182(b)(2) was intended to preclude the adoption of source-specific rules.

Thus, where CTG-subject sources are located within those areas of a state where RACT applies under Part D of the Act, the state is obligated to impose RACT for the same universe of sources covered by the CTG. However, that obligation is not required to be met by the adoption and submittal of a source category RACT rule. A state may, instead, opt to impose RACT for such sources in permits, plan approvals, consent orders or in any other state enforceable document and submit those documents to EPA for approval as source-specific SIP revisions. This option has been exercised by many states, and happens most commonly when only a few CTG-subject sources are located in the state. The source-specific approach is generally employed to avoid what can be a lengthy and resource-intensive state rule adoption process for only a few sources that may have different needs and considerations that must be taken into account.

As stated earlier, there is one source category explicitly included in PennFuture's comment for which EPA has issued a CTG, namely natural gas/gas processing plants. The Commonwealth made a negative declaration to EPA on April 13, 1993, stating that as of that date there were no applicable sources in this category. Therefore, the Commonwealth did not adopt a category RACT regulation for natural gas/gas processing plants.

D. Comment: PennFuture cites EPA correspondence [letter from Marcia Spink, EPA, to James Salvaggio, DEP, December 15, 1993] to the Commonwealth which states that establishing any dollar figure in RACT guidance will not provide for the ''automatic'' selection or rejection of a control technology or emission limitation as RACT for a source or source category. With regard to the Pennsylvania DEP's intent to finalize a NO_X RACT Guidance Document for implementation of its NO_X RACT regulation, EPA's 1993 letter stated that the document could improperly be used to establish ''bright line'' or ''cook-book'' approaches, particularly for a regulation applicable to many source categories and suggested that if the guidance document must include dollar figures/ton, it provide approximate ranges by source category. PennFuture comments that DEP issued its ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions,'' March 11, 1994, and on pp. 8–9 states that the acceptable threshold is $1500 per ton, and that this figure applies to ''all source categories.'' PennFuture notes that EPA later objected to the $1500 per ton methodology as ''not generically acceptable to EPA'' [letter from Thomas Maslany, EPA, to James Salvaggio, DEP, June 24, 1997] and further stated in a **Federal Register** notice that a ''dollar per ton threshold'' is ''inconsistent with the definition of RACT'' [62 FR 43134, 37–38 (1997)].

PennFuture comments that EPA is proposing to approve RACT determinations based on a cost per ton method that EPA had previously rejected, and according to its own clearly expressed standard, EPA must not approve RACT determinations by Pennsylvania DEP that apply this $1500 per ton threshold. The commenter states that PennFuture's review of several of the current DEP evaluations indicate that the Commonwealth applied this standard and provides the examples of Duquesne Light—Elrama (auxiliary boiler); Allegheny Ludlum—Washington (formerly Jessop Steel). PennFuture asserts EPA must reject all Pennsylvania RACT determinations applying the standard of $1500 per ton, or any other ''bright line'' approach, as failing to follow EPA procedures established for Pennsylvania RACT.

Response: EPA still takes the position that a single cost per ton dollar figure may not, in and of itself, form the basis for rejecting a control technology, equipment standard, or work practice standard as RACT. The Technical Support Document prepared by EPA in support of its March 23, 1998 rulemaking [63 FR 13789] clearly indicates that the Commonwealth's document, ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions.'' March 11, 1994, had not been included as part of the SIP submission of the Commonwealth's generic regulation and, therefore, had not been approved by EPA. EPA further notes that the Administrative Record of the March 23, 1998 rulemaking [63 FR 13789], in addition to the correspondence cited by PennFuture, also includes correspondence from DEP to EPA [letter from James Salvaggio, DEP to David Arnold, EPA, September 10, 1997] stating that DEP's RACT guidance document does not establish a maximum dollar per ton for determining the cost effectiveness for RACT determinations and notes that the DEP's $1500 per ton cost effectiveness is a target value and not an absolute maximum. For example, in its analyses of the cost effectiveness of RACT control options submitted by DEP as part of the case-by-case SIP revision for Peoples Natural Gas (PNG) Valley Compressor Station's turbo charged lean burn IC engine (see the Administrative Record for 66 FR 43492), the Commonwealth included DEP interoffice memoranda (Thomas Joseph to Krishnan Ramamurthy, July 14, 1994 and Krishnan Ramamurthy to Thomas McGinley, Babu Patel, Ronald Davis, Richard Maxwell, and Devendra Verma, July 15, 1994) which spoke directly to the $1500/ton dollar figure as being a guideline and not an upper limit. These memoranda explain that although PNG initially proposed intermediate original equipment manufacturer (OEM) combustion controls which would have reduced NO_X emissions from 254.7 tons per year to 115 tons per year (by 55%) at a cost of $1355 per ton reduced, DEP required the installation of an OEM lean combustion modification that reduced NO_X emissions from 254.7 tons per year to 76 tons per year (by 69%) at a cost of $1684 per ton reduced. The DEP's July 15, 1994 interoffice memorandum says of the PNG RACT determination which exceeded the cost effectiveness screening level of $1500 per ton ''Tom's (Joseph) insistence for the next more stringent level of control than the company's chosen level in the case of PNG was consistent with EPA Region III's sentiment that establishing any dollar figure in RACT guidance will not provide for an ''automatic'' rejection of a control technology as RACT for a source.''

In no instance, including that for Duquesne Light—Elrama (auxiliary boiler) and Allegheny Ludlum—Washington (formerly Jessop Steel), has EPA proposed to approve a RACT determination submitted by the Commonwealth which was based solely on a conclusion that controls that cost more than $1500/ton were not required as RACT. As explained in the response provided in section II. A. of this document, EPA conducts its review of the entire case-by-case RACT SIP submittal including the source's proposed RACT plan and analyses, Pennsylvania's analyses and the RACT plan approval, consent order or permit itself to insure that the requirements of the SIP-approved generic RACT have been followed. These analyses not only

evaluate and consider the costs of potential control options, but also evaluate their technological feasibility.

E. Comment: PennFuture comments that any emission reduction credits (ERCs) earned by sources subject to RACT must be surplus to all applicable state and federal requirements. Under Pennsylvania law, ERCs must be surplus, permanent, quantified, and Federally enforceable. 25 Pa.Code 127.207(1). As to the requirement that ERCs be surplus, the Pennsylvania Code states: ERCs shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emission limitation or compliance plans. Emission reductions necessary to meet NSPS, LAER, RACT, Best Available Technology, BACT and permit or plan approval emissions limitations or another emissions limitation required by the Clean Air Act or the [Air Pollution Control Act] may not be used to generate ERCs. 25 Pa.Code 127.207(1)(i). To be creditable, ERCs must surpass not only RACT requirements but a host of other possible sources of emission limits. PennFuture comments that some of the RACT evaluations at issue in the current EPA notices purport to establish RACT as a baseline for future ERCs. PennFuture does acknowledge that EPA notes in its boilerplate for the notices, that Pennsylvania and EPA have established a series of NO_X-reducing rules, including the recent Chapter 145 rule, to reduce NO_X at large utility and industrial sources. See, for example, 66 FR 42415, 16–17 (August 13, 2001). Because any ERCs must be surplus to the most stringent limitation applicable under state or federal law as described in the Pennsylvania Code provision set forth above, DEP and EPA must not approve ERCs unless they surpass all such limitations in addition to any limits set by RACT.

Response: EPA agrees with this comment by PennFuture. The approval of a case-by-case RACT determination, in and of itself, does not establish the baseline from which further emission reductions may be calculated and assumed creditable under the Commonwealth's SIP-approved NSR and ERC program. Moreover, EPA's review of the Pennsylvania DEP's implementation of its approved SIP-approved NSR and ERC program indicates that the Commonwealth calculates and credits ERCs in accordance with the SIP-approved criteria for doing so as outlined in PennFuture's comment. No source for which EPA is approving a case-by-case RACT determination should assume that its RACT approval alone automatically establishes the baseline against which it may calculate creditable ERCs.

F. Comment: PennFuture comments that as in the case with Pennsylvania Power—Newcastle, EPA should compare RACT proposals to applicable acid rain program emission limits and control strategies. PennFuture contends that EPA previously disapproved a RACT proposal for the Pennsylvania Power—Newcastle plant [62 FR 43959 (1997); 63 FR 23668 (1998)] and that EPA did so on the basis that the acid rain program requires more stringent emission limits. PennFuture asserts that while EPA had originally proposed to approve this proposal, an analysis of comparable boilers and, especially, a comparison to Phase II emission limits under the acid rain program led EPA to conclude that the RACT proposal emission limits were too lenient. [62 FR at 43961]. Therefore, PennFuture contends that for sources subject to the acid rain program, EPA should consider emissions and control strategies for compliance with acid rain emission limits when evaluating proposals for compliance with RACT.

Response: Title IV of the Act, addressing the acid rain program, contains NO_X emission requirements for utilities which must be met *in addition to* any RACT requirements (see NO_X Supplement to the General Preamble at 57 FR 55625, November 25, 1992). The Act provides for a number of control programs that may affect similar sources. For example, new sources may be subject to new source performance standards (NSPS), best available control technology (BACT), and lowest achievable emission rate (LAER). Other controls, under such programs as the acid rain program or the hazardous air pollutant program may also apply to sources. However, the applicability of these other requirements, which are often more stringent than RACT, do not establish what requirements must apply under the RACT program. While these programs may provide information as to the technical and economic feasibility of reduction programs for RACT, there is no presumption that acid rain controls should be mandated as RACT.

EPA stated in the final disapproval of the NO_X RACT determination for PPNC [63 FR at 23669], that the discussion concerning average emission rates for boilers with respect to the acid rain program requirements were included in order to provide a context for EPA's proposed disapproval. EPA made clear in its August 18, 1997 proposed disapproval of Pennsylvania Powers'—Newcastle (PPNC) RACT determination, that the basis for disapproval was a comparison between PPNC's boilers and other similar combustion units, not acid rain limits. In fact, EPA stated in the August 18, 1997 proposed disapproval that ''Without additional knowledge or information, it would be erroneous and premature to conclude that the limits in the acid rain permit are RACT.'' [62 FR at 43961]. EPA clearly stated in the final disapproval for PPNC that it did not use acid rain permit limits, or Pennsylvania's participation in any other NO_X control program, to determine PPNC RACT approvability [63 FR at 23670]. Nor has EPA intended to use participation in NO_X control programs including acid rain, in determining RACT for PPNC or any other subject sources. EPA also stated that the April 30, 1998, PPNC disapproval was based on the absence of pertinent information regarding a computerized combustion optimization system through an enforceable permit, not comparison of acid rain permit limits.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_X RACT for eleven major of sources located in the Pittsburgh area. EPA is approving these RACT SIP submittals because the ACHD and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The ACHD and PADEP have also imposed record-keeping, monitoring, and testing requirements on these sufficient to determine compliance with the applicable RACT determinations.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small

entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from eleven individual steel/coke manufacturing sources in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

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

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

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

(i) *Incorporation by reference.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

[FR Doc. 01–25731 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4156; FRL–7081–6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for Latrobe Steel Company, a major source of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving this revision to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on October 31, 2001.

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

FOR FURTHER INFORMATION CONTACT: Marcia Spink, (215) 814–2104 or by e-mail at spink.marcia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 21, 1996, PADEP submitted revisions to the Pennsylvania SIP which establish and impose case-by-case RACT for several sources of VOC and/or NO_X. This rulemaking pertains to the Commonwealth's submittal of operating permit (OP) 65–000–016 which imposes NO_X RACT requirements for the Latrobe Steel Company (LSC), a major source of NO_X located in the Pittsburgh area. The RACT determinations submitted on March 21, 1996 for other sources are or have been the subject of separate rulemakings.

On August 10, 2001, EPA published a direct final rule (66 FR 42123) and a companion notice of proposed rulemaking (66 FR 42172) to approve these SIP revisions. On September 7, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On September 20, 2001 (66 FR 48347), we published a timely withdrawal in the **Federal Register** informing the public that the direct final rule did not take effect. We indicated in our August 10, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 42172). This is that subsequent final rule. A description of the RACT determination made for LSC was provided in the August 10, 2001 direct final rule and will not be restated here. A summary of the comments submitted by PennFuture germane to this final rulemaking and EPA's responses are provided in Section II of this document.

II. Public Comments and Responses

The Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on twenty proposed rules published by EPA in the **Federal Register** between August 6 and August 24, 2001 to approve case-by-case RACT SIP submissions from the Commonwealth for NO_X and or VOC sources located in the Pittsburgh area. PennFuture's letter includes general comments and comments specific to EPA's proposals for certain sources. A summary of those comments and EPA's responses are provided below.

A. Comment: PennFuture comments that EPA has conducted no independent technical review, and has prepared no technical support document to survey potential control technologies, determine the capital and operating costs of different options, and rank these options in total and marginal cost per ton of NO_X and VOC controlled. In citing the definition of the term ''RACT,'' and the Strelow Memorandum [Roger Strelow, Assistant Administrator for Air and Waste Management, EPA, December 9, 1976, cited in *Michigan* v. *Thomas,* 805 F.2d 176, 180 (6th Cir. 1986) and at 62 FR 43134, 43136 (1997)], PennFuture appears to comment that in every situation, RACT must include an emission rate. PennFuture asserts that EPA should conduct its own RACT evaluation for each source, or at a minimum document a step-by-step review demonstrating the adequacy of state evaluations, to ensure that appropriate control technology is applied. The commenter also believes that EPA's failure to conduct its own independent review of control technologies has resulted in our proposing to approve some RACT determinations that fail to meet the terms of EPA's own RACT standard.

Response: On March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of* NO_X *and VOCs,* requires subject facilities to submit a RACT plan proposal to both the Pennsylvania Department of Environmental Protection (DEP) and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements.* Under subsection 129.92, that proposal is to include, among other information: (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92 (b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision.

The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by case RACT determinations by the DEP. Rather, EPA stated that ''* * * RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control

for source categories or individual sources.''

On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. In that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. EPA received no public comments on its action and that final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status. On August 24, 2001 (66 FR 44578), EPA proposed to remove the limited nature of its approval of Pennsylvania's generic RACT regulation in the Pittsburgh area. EPA received no public comments on that proposal. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Pittsburgh-Beaver area *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

EPA agrees that it has an obligation to review the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA does not agree, however, that this obligation to review the case-by-case RACT determinations submitted by Pennsylvania necessarily extends to our performing our own RACT analyses, independent of the sources' RACT plans/analyses (included as part of the case-by case RACT SIP revisions) or the Commonwealth's analyses. EPA first reviews this submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT for a specific source. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then EPA may add additional EPA-generated analyses to the record.

While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (The publication numbers for these CTG documents may be found at *http://www.epa.gov/ttn/catc/dir1/ctg.txt*).

EPA disagrees with PennFuture's general comment that our failure to conduct our own independent review of control technologies for every case-by-case RACT determination conducted by the Commonwealth has resulted in our proposing to approve some RACT determinations that fail to meet the terms of our own RACT standard. PennFuture submitted comments specific to the case-by-case RACT determinations for only three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island stations. EPA summarizes those comments and provides responses in the final rule pertaining to those sources.

B. Comment: PennFuture comments that when EPA reviewed Pennsylvania's RACT program, it noted that Pennsylvania coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour ''are some of the largest NO_X emitting sources in the Commonwealth and in the Northeast United States'' [63 FR 13789, 13791 (1998)] and as such should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93) to guarantee that sources would achieve quantifiable emissions reductions under the RACT program. PennFuture goes on to comment that because EPA has not conducted and documented a technical review of Pennsylvania case-by case RACT submissions, EPA has not demonstrated that these large boilers are subject to ''numeric emission limitations'' under RACT. EPA must conduct a thorough RACT evaluation or review for each such source, and must document the application of numeric emission limits and quantifiable reductions for each coal-fired boiler with a rated heat input of over 100 million Btu per hour.

Response: Circumstances may exist wherein a state could justify otherwise, however, in general, EPA agrees with PennFuture that coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93).

As provided in the response found in II. A, EPA does not agree that it must conduct its own technical analysis of each of the case-by-case RACT determinations submitted for each RACT source in order to document that its RACT requirements include numeric emission limitations. That determination can be made by EPA when it reviews the plan approval, consent order, or permit issued to such a source as submitted by the Commonwealth as SIP revision. PennFuture's comment did not point to a specific instance where a RACT plan approval, consent order or permit imposing RACT on a coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour did, in fact, lack a numerical emission limitation(s). Nonetheless, pursuant to PennFuture's comment, EPA has re-examined all of the case-by-case RACT SIP submissions made by the Commonwealth for such sources located in the Pittsburgh area. That re-examination, combined with information provided by the Commonwealth, indicates that each case-by-case RACT plan approval, consent order and/or permit for each coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour includes a numeric emission limitation. A listing of each source, its plan approval, consent order and/or permit number and its numerical emission limitation has been placed in the Administrative Records for the case-by -case RACT rulemakings for the Pittsburgh area.

C. Comment: PennFuture asserts that the Commonwealth has not adopted and submitted category RACT rules for all VOC source categories for which federal control technique guidelines (CTGs) have been issued. The commenter refers to Appendix 1 of the Technical Support Document (dated May 14, 2001), prepared by EPA in support of its proposed rule to redesignate the Pittsburgh-Beaver Valley Ozone Nonattainment Area (66 FR 29270), to assert that EPA has failed to require the

Commonwealth to submit VOC RACT rules for certain categories of sources. PennFuture specifically names source categories such as equipment leaks from natural gas/gas processing plants, coke oven batteries, iron and steel foundries, and publically owned treatment works and asserts that the Commonwealth has neglected a statutory requirement to adopt category RACT regulations for these and 14 other unnamed VOC source categories.

Response: EPA has not issued CTGs for coke oven batteries, iron and steel foundries and publically owned treatment works. The Appendix 1, referred to by the commenter, lists CTG covered categories as well as source categories taken from two STAPPA/ALAPCO documents entitled, ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act—A Menu of Options' (September 1993) and ''Controlling Nitrogen Oxides Under the Clean Air Act—A Menu of Options'' (July 1994). The categories referenced by PennFuture are not VOC categories for which EPA has issued CTGs, but were included in Appendix A as examples of some of the types of sources that could be subject to Pennsylvania's generic RACT regulations.

The Commonwealth is under no statutory obligation to adopt RACT rules for source categories for which EPA has not issued a CTG. In fact, CTGs do not exist for all but one of the categories to which the commenter explicitly refers.

The Act requires that states adopt regulations to impose RACT for ''major sources of VOC,'' located within those areas of a state where RACT applies under Part D of the Act [182(b)(2)(C)]. This is referred to as the non-CTG VOC RACT requirement. Moreover, EPA disagrees that there is a statutory mandate that a state adopt a source category RACT regulation even for a source category where EPA has issued a CTG. There are two statutory provisions that address RACT for sources covered by a CTG. One provides that states must adopt RACT for ''any category of VOC sources'' covered by a CTG issued prior to November 15, 1990 [182(b)(2)(A)]. The other provides that states must adopt VOC RACT for all ''VOC sources'' covered by a CTG issued after November 15, 1990 [182(b)(2)(B)]. EPA has long interpreted the statutory RACT requirement to be met either by adoption of category-specific rules or by source-specific rules for each source within a category. When initially established, RACT was clearly defined as a case-by-case determination, but EPA provided CTG's to simplify the process for states such that they would not be required to adopt hundreds or thousands of individual rules. See Strelow Memorandum dated December 9, 1976 and 44 FR 53761, September 17, 1979. EPA does not believe that Congress' use of ''source category'' in one provision of section 182(b)(2) was intended to preclude the adoption of source-specific rules.

Thus, where CTG-subject sources are located within those areas of a state where RACT applies under Part D of the Act, the state is obligated to impose RACT for the same universe of sources covered by the CTG. However, that obligation is not required to be met by the adoption and submittal of a source category RACT rule. A state may, instead, opt to impose RACT for such sources in permits, plan approvals, consent orders or in any other state enforceable document and submit those documents to EPA for approval as source-specific SIP revisions. This option has been exercised by many states, and happens most commonly when only a few CTG-subject sources are located in the state. The source-specific approach is generally employed to avoid what can be a lengthy and resource-intensive state rule adoption process for only a few sources that may have different needs and considerations that must be taken into account.

As stated earlier, there is one source category explicitly included in PennFuture's comment for which EPA has issued a CTG, namely natural gas/gas processing plants. The Commonwealth made a negative declaration to EPA on April 13, 1993, stating that as of that date there were no applicable sources in this category. Therefore, the Commonwealth did not adopt a category RACT regulation for natural gas/gas processing plants.

D. Comment: PennFuture cites EPA correspondence [letter from Marcia Spink, EPA, to James Salvaggio, DEP, December 15, 1993] to the Commonwealth which states that establishing any dollar figure in RACT guidance will not provide for the ''automatic'' selection or rejection of a control technology or emission limitation as RACT for a source or source category. With regard to the Pennsylvania DEP's intent to finalize a NO_X RACT Guidance Document for implementation of its NO_X RACT regulation, EPA's 1993 letter stated that the document could improperly be used to establish ''bright line'' or ''cook-book'' approaches, particularly for a regulation applicable to many source categories and suggested that if the guidance document must include dollar figures/ton, it provide approximate ranges by source category. PennFuture comments that DEP issued its ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions,'' March 11, 1994, and on pp. 8–9 states that the acceptable threshold is $1500 per ton, and that this figure applies to ''all source categories.'' PennFuture notes that EPA later objected to the $1500 per ton methodology as ''not generically acceptable to EPA'' [letter from Thomas Maslany, EPA, to James Salvaggio, DEP, June 24, 1997] and further stated in a **Federal Register** notice that a ''dollar per ton threshold'' is ''inconsistent with the definition of RACT'' [62 FR 43134, 37–38 (1997)].

PennFuture comments that EPA is proposing to approve RACT determinations based on a cost per ton method that EPA had previously rejected, and according to its own clearly expressed standard, EPA must not approve RACT determinations by Pennsylvania DEP that apply this $1500 per ton threshold. The commenter states that PennFuture's review of several of the current DEP evaluations indicate that the Commonwealth applied this standard and provides the examples of Duquesne Light—Elrama (auxiliary boiler); Allegheny Ludlum—Washington (formerly Jessop Steel). PennFuture asserts EPA must reject all Pennsylvania RACT determinations applying the standard of $1500 per ton, or any other ''bright line'' approach, as failing to follow EPA procedures established for Pennsylvania RACT.

Response: EPA still takes the position that a single cost per ton dollar figure may not, in and of itself, form the basis for rejecting a control technology, equipment standard, or work practice standard as RACT. The Technical Support Document prepared by EPA in support of its March 23, 1998 rulemaking [63 FR 13789] clearly indicates that the Commonwealth's document, ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions.'' March 11, 1994, had not been included as part of the SIP submission of the Commonwealth's generic regulation and, therefore, had not been approved by EPA. EPA further notes that the Administrative Record of the March 23, 1998 rulemaking [63 FR 13789], in addition to the correspondence cited by PennFuture, also includes correspondence from DEP to EPA [letter from James Salvaggio, DEP to David Arnold, EPA, September 10, 1997] stating that DEP's RACT guidance document does not establish a maximum dollar per ton for determining the cost effectiveness for RACT determinations and notes that the DEP's

$1500 per ton cost effectiveness is a target value and not an absolute maximum. For example, in its analyses of the cost effectiveness of RACT control options submitted by DEP as part of the case-by-case SIP revision for Peoples Natural Gas (PNG) Valley Compressor Station's turbo charged lean burn IC engine (see the Administrative Record for 66 FR 43492), the Commonwealth included DEP interoffice memoranda (Thomas Joseph to Krishnan Ramamurthy, July 14, 1994 and Krishnan Ramamurthy to Thomas McGinley, Babu Patel, Ronald Davis, Richard Maxwell, and Devendra Verma, July 15, 1994) which spoke directly to the $1500/ton dollar figure as being a guideline and not an upper limit. These memoranda explain that although PNG initially proposed intermediate original equipment manufacturer (OEM) combustion controls which would have reduced NO_X emissions from 254.7 tons per year to 115 tons per year (by 55 %) at a cost of $1355 per ton reduced, DEP required the installation of an OEM lean combustion modification that reduced NO_X emissions from 254.7 tons per year to 76 tons per year (by 69%) at a cost of $1684 per ton reduced. The DEP's July 15, 1994 interoffice memorandum says of the PNG RACT determination which exceeded the cost effectiveness screening level of $1500 per ton ''Tom's (Joseph) insistence for the next more stringent level of control than the company's chosen level in the case of PNG was consistent with EPA Region III's sentiment that establishing any dollar figure in RACT guidance will not provide for an ''automatic'' rejection of a control technology as RACT for a source.''

In no instance, including that for Duquesne Light—Elrama (auxiliary boiler) and Allegheny Ludlum—Washington (formerly Jessop Steel), has EPA proposed to approve a RACT determination submitted by the Commonwealth which was based solely on a conclusion that controls that cost more than $1500/ton were not required as RACT. As explained in the response provided in section II. A. of this document, EPA conducts its review of the entire case-by-case RACT SIP submittal including the source's proposed RACT plan and analyses, Pennsylvania's analyses and the RACT plan approval, consent order or permit itself to insure that the requirements of the SIP-approved generic RACT have been followed. These analyses not only evaluate and consider the costs of potential control options, but also evaluate their technological feasibility.

E. Comment: PennFuture comments that any emission reduction credits (ERCs) earned by sources subject to RACT must be surplus to all applicable state and federal requirements. Under Pennsylvania law, ERCs must be surplus, permanent, quantified, and Federally enforceable. 25 Pa.Code 127.207(1). As to the requirement that ERCs be surplus, the Pennsylvania Code states: ERCs shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emission limitation or compliance plans. Emission reductions necessary to meet NSPS, LAER, RACT, Best Available Technology, BACT and permit or plan approval emissions limitations or another emissions limitation required by the Clean Air Act or the [Air Pollution Control Act] may not be used to generate ERCs. 25 Pa.Code 127.207(1)(i). To be creditable, ERCs must surpass not only RACT requirements but a host of other possible sources of emission limits. PennFuture comments that some of the RACT evaluations at issue in the current EPA notices purport to establish RACT as a baseline for future ERCs. PennFuture does acknowledge that EPA notes in its boilerplate for the notices, that Pennsylvania and EPA have established a series of NO_X-reducing rules, including the recent Chapter 145 rule, to reduce NO_X at large utility and industrial sources. See, for example, 66 FR 42415, 16–17 (August 13, 2001). Because any ERCs must be surplus to the most stringent limitation applicable under state or federal law as described in the Pennsylvania Code provision set forth above, DEP and EPA must not approve ERCs unless they surpass all such limitations in addition to any limits set by RACT.

Response: EPA agrees with this comment by PennFuture. The approval of a case-by-case RACT determination, in and of itself, does not establish the baseline from which further emission reductions may be calculated and assumed creditable under the Commonwealth's SIP-approved NSR and ERC program. Moreover, EPA's review of the Pennsylvania DEP's implementation of its approved SIP-approved NSR and ERC program indicates that the Commonwealth calculates and credits ERCs in accordance with the SIP-approved criteria for doing so as outlined in PennFuture's comment. No source for which EPA is approving a case-by-case RACT determination should assume that its RACT approval alone automatically establishes the baseline against which it may calculate creditable ERCs.

F. Comment: PennFuture comments that as in the case with Pennsylvania Power—Newcastle, EPA should compare RACT proposals to applicable acid rain program emission limits and control strategies. PennFuture contends that EPA previously disapproved a RACT proposal for the Pennsylvania Power—Newcastle plant [62 FR 43959 (1997); 63 FR 23668 (1998)] and that EPA did so on the basis that the acid rain program requires more stringent emission limits. PennFuture asserts that while EPA had originally proposed to approve this proposal, an analysis of comparable boilers and, especially, a comparison to Phase II emission limits under the acid rain program led EPA to conclude that the RACT proposal emission limits were too lenient. [62 FR at 43961]. Therefore, PennFuture contends that for sources subject to the acid rain program, EPA should consider emissions and control strategies for compliance with acid rain emission limits when evaluating proposals for compliance with RACT.

Response: Title IV of the Act, addressing the acid rain program, contains NO_X emission requirements for utilities which must be met *in addition to* any RACT requirements (see NO_X Supplement to the General Preamble at 57 FR 55625, November 25, 1992). The Act provides for a number of control programs that may affect similar sources. For example, new sources may be subject to new source performance standards (NSPS), best available control technology (BACT), and lowest achievable emission rate (LAER). Other controls, under such programs as the acid rain program or the hazardous air pollutant program may also apply to sources. However, the applicability of these other requirements, which are often more stringent than RACT, do not establish what requirements must apply under the RACT program. While these programs may provide information as to the technical and economic feasibility of reduction programs for RACT, there is no presumption that acid rain controls should be mandated as RACT.

EPA stated in the final disapproval of the NO_X RACT determination for PPNC [63 FR at 23669], that the discussion concerning average emission rates for boilers with respect to the acid rain program requirements were included in order to provide a context for EPA's proposed disapproval. EPA made clear in its August 18, 1997 proposed disapproval of Pennsylvania Powers'—Newcastle (PPNC) RACT determination, that the basis for disapproval was a comparison between PPNC's boilers and

other similar combustion units, not acid rain limits. In fact, EPA stated in the August 18, 1997 proposed disapproval that ''Without additional knowledge or information, it would be erroneous and premature to conclude that the limits in the acid rain permit are RACT.'' [62 FR at 43961]. EPA clearly stated in the final disapproval for PPNC that it did not use acid rain permit limits, or Pennsylvania's participation in any other NO_X control program, to determine PPNC RACT approvability [63 FR at 23670]. Nor has EPA intended to use participation in NO_X control programs including acid rain, in determining RACT for PPNC or any other subject sources. EPA also stated that the April 30, 1998, PPNC disapproval was based on the absence of pertinent information regarding a computerized combustion optimization system through an enforceable permit, not comparison of acid rain permit limits.

III. Final Action

EPA is approving Latrobe Steel's OP 65–000–016 as a revision to the Pennsylvania SIP. It was submitted by PADEP to establish and impose NO_X RACT for Latrobe Steel, a major source located in the Pittsburgh area. EPA is approving Pennsylvania's RACT SIP submittal of OP 65–000–016 which establishes and imposes RACT requirements on Latrobe Steel in accordance with the criteria set forth in its SIP-approved RACT regulations and which also imposes record-keeping, monitoring, and testing requirements sufficient to determine compliance with the applicable RACT determinations.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control NO_X from Latrobe Steel may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(158) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(158) Revision pertaining to NO_X RACT for the Latrobe Steel Company located in Latrobe Borough,

Westmoreland County, submitted by the Pennsylvania Department of Environmental Protection on March 21, 1996.

(i) *Incorporation by reference.*

(A) Letter submitted on March 21, 1996 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations.

(B) Operating Permit 65–000–016, effective December 22, 1995, for the Latrobe Steel Company in Latrobe Borough, Westmoreland County, except for the specified Permit Term: 12/22/95—12/22/00.

(ii) *Additional materials.* Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determination for the source listed in paragraph (c)(158)(i)(B) of this section.

* * * * *

[FR Doc. 01–25732 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA147/177–4161; FRL–7081–5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

EFFECTIVE DATE: This final rule is effective on October 31, 2001.

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

FOR FURTHER INFORMATION CONTACT: Marcia Spink, (215) 814–2104 or by e-mail at spink.marcia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 9, 1999 and July 5, 2001, the PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of NO_X and VOCs. The RACT determinations for four of those sources, named below, are the subject of this rulemaking. These four sources are all located in the Pittsburgh area. The RACT determinations submitted for the other sources are or have been the subject of separate rulemakings. These four sources are all located in the Pittsburgh area and consist of Lukens Steel Corporation, Houston Plant; Allegheny Ludlum Steel Corporation, West Leechburg Plant; Allegheny Ludlum Corporation, Jessop Steel Company, Washington Plant; and Koppel Steel Corporation, Koppel Plant.

On August 15, 2001, EPA published a direct final rule (66 FR 42756) and a companion notice of proposed rulemaking (66 FR 42831) to approve these SIP revisions. On September 7, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On September 28, 2001 (66 FR 49541), we published a timely withdrawal in the Federal Register informing the public that the direct final rule did not take effect. We indicated in our August 15, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 42831). This is that subsequent final rule. A description of the RACT determination(s) made for each source was provided in the August 15, 2001 direct final rule and will not be restated here. A summary of the comments submitted by PennFuture germane to this final rulemaking and EPA's responses are provided in Section II of this document.

II. Public Comments and Responses

The Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on twenty proposed rules published by EPA in the **Federal Register** between August 6 and August 24, 2001 to approve case-by-case RACT SIP submissions from the Commonwealth for NO_X and or VOC sources located in the Pittsburgh area. PennFuture's letter includes general comments and comments specific to EPA's proposals for certain sources. A summary of those comments and EPA's responses are provided below.

A. Comment: PennFuture comments that EPA has conducted no independent technical review, and has prepared no technical support document to survey potential control technologies, determine the capital and operating costs of different options, and rank these options in total and marginal cost per ton of NO_X and VOC controlled. In citing the definition of the term ''RACT,'' and the Strelow Memorandum [Roger Strelow, Assistant Administrator for Air and Waste Management, EPA, December 9, 1976, cited in *Michigan* v. *Thomas,* 805 F.2d 176, 180 (6th Cir. 1986) and at 62 FR 43134, 43136 (1997)], PennFuture appears to comment that in every situation, RACT must include an emission rate. PennFuture asserts that EPA should conduct its own RACT evaluation for each source, or at a minimum document a step-by-step review demonstrating the adequacy of state evaluations, to ensure that appropriate control technology is applied. The commenter also believes that EPA's failure to conduct its own independent review of control technologies has resulted in our proposing to approve some RACT determinations that fail to meet the terms of EPA's own RACT standard.

Response: On March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of NO_X and VOCs,* requires subject facilities to submit a RACT plan proposal to both the Pennsylvania Department of Environmental Protection (DEP) and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements.* Under subsection 129.92, that proposal is to include, among other information: (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential

and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92 (b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision.

The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by-case RACT determinations by the DEP. Rather, EPA stated that ''* * * RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources.''

On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. In that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. EPA received no public comments on its action and that final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status. On August 24, 2001 (66 FR 44578), EPA proposed to remove the limited nature of its approval of Pennsylvania's generic RACT regulation in the Pittsburgh area. EPA received no public comments on that proposal. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Pittsburgh-Beaver area *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

EPA agrees that it has an obligation to review the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA does not agree, however, that this obligation to review the case-by-case RACT determinations submitted by Pennsylvania necessarily extends to our performing our own RACT analyses, independent of the sources' RACT plans/analyses (included as part of the case-by case RACT SIP revisions) or the Commonwealth's analyses. EPA first reviews this submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT for a specific source. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then EPA may add additional EPA-generated analyses to the record.

While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (The publication numbers for these CTG documents may be found at *http://www.epa.gov/ttn/catc/dir1/ctg.txt).*

EPA disagrees with PennFuture's general comment that our failure to conduct our own independent review of control technologies for every case-by-case RACT determination conducted by the Commonwealth has resulted in our proposing to approve some RACT determinations that fail to meet the terms of our own RACT standard. PennFuture submitted comments specific to the case-by-case RACT determinations for only three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island stations. EPA summarizes those comments and provides responses in the final rule pertaining to those sources.

B. Comment: PennFuture comments that when EPA reviewed Pennsylvania's RACT program, it noted that Pennsylvania coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour ''are some of the largest NO_X emitting sources in the Commonwealth and in the Northeast United States'' [63 FR 13789, 13791 (1998)] and as such should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93) to guarantee that sources would achieve quantifiable emissions reductions under the RACT program. PennFuture goes on to comment that because EPA has not conducted and documented a technical review of Pennsylvania case-by case RACT submissions, EPA has not demonstrated that these large boilers are subject to ''numeric emission limitations'' under RACT. EPA must conduct a thorough RACT evaluation or review for each such source, and must document the application of numeric emission limits and quantifiable reductions for each coal-fired boiler with a rated heat input of over 100 million Btu per hour.

Response: Circumstances may exist wherein a state could justify otherwise, however, in general, EPA agrees with PennFuture that coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93).

As provided in the response found in II. A, EPA does not agree that it must conduct its own technical analysis of each of the case-by-case RACT determinations submitted for each RACT source in order to document that its RACT requirements include numeric emission limitations. That determination can be made by EPA when it reviews the plan approval, consent order, or permit issued to such a source as submitted by the Commonwealth as SIP revision. PennFuture's comment did not point to a specific instance where a RACT plan approval, consent order or permit imposing RACT on a coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour did, in fact, lack a numerical emission

limitation(s). Nonetheless, pursuant to PennFuture's comment, EPA has re-examined all of the case-by-case RACT SIP submissions made by the Commonwealth for such sources located in the Pittsburgh area. That re-examination, combined with information provided by the Commonwealth, indicates that each case-by-case RACT plan approval, consent order and/or permit for each coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour includes a numeric emission limitation. A listing of each source, its plan approval, consent order and/or permit number and its numerical emission limitation has been placed in the Administrative Records for the case-by-case RACT rulemakings for the Pittsburgh area.

C. Comment: PennFuture asserts that the Commonwealth has not adopted and submitted category RACT rules for all VOC source categories for which federal control technique guidelines (CTGs) have been issued. The commenter refers to Appendix 1 of the Technical Support Document (dated May 14, 2001), prepared by EPA in support of its proposed rule to redesignate the Pittsburgh-Beaver Valley Ozone Nonattainment Area (66 FR 29270), to assert that EPA has failed to require the Commonwealth to submit VOC RACT rules for certain categories of sources. PennFuture specifically names source categories such as equipment leaks from natural gas/gas processing plants, coke oven batteries, iron and steel foundries, and publically owned treatment works and asserts that the Commonwealth has neglected a statutory requirement to adopt category RACT regulations for these and 14 other unnamed VOC source categories.

Response: EPA has not issued CTGs for coke oven batteries, iron and steel foundries and publically owned treatment works. The Appendix 1, referred to by the commenter, lists CTG covered categories as well as source categories taken from two STAPPA/ALAPCO documents entitled, ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act—A Menu of Options'' (September 1993) and ''Controlling Nitrogen Oxides Under the Clean Air Act—A Menu of Options'' (July 1994). The categories referenced by PennFuture are not VOC categories for which EPA has issued CTGs, but were included in Appendix A as examples of some of the types of sources that could be subject to Pennsylvania's generic RACT regulations. The Commonwealth is under no statutory obligation to adopt RACT rules for source *categories* for which EPA has not issued a CTG. In fact, CTGs do not exist for all but one of the categories to which the commenter explicitly refers.

The Act requires that states adopt regulations to impose RACT for ''major sources of VOC,'' located within those areas of a state where RACT applies under Part D of the Act [182(b)(2)(C)]. This is referred to as the non-CTG VOC RACT requirement. Moreover, EPA disagrees that there is a statutory mandate that a state adopt a source category RACT regulation even for a source category where EPA has issued a CTG. There are two statutory provisions that address RACT for sources covered by a CTG. One provides that states must adopt RACT for ''any category of VOC sources'' covered by a CTG issued prior to November 15, 1990 [182(b)(2)(A)]. The other provides that states must adopt VOC RACT for all ''VOC sources'' covered by a CTG issued after November 15, 1990 [182(b)(2)(B)]. EPA has long interpreted the statutory RACT requirement to be met either by adoption of category-specific rules or by source-specific rules for each source within a category. When initially established, RACT was clearly defined as a case-by-case determination, but EPA provided CTG's to simplify the process for states such that they would not be required to adopt hundreds or thousands of individual rules. See Strelow Memorandum dated December 9, 1976 and 44 FR 53761, September 17, 1979. EPA does not believe that Congress' use of ''source category'' in one provision of section 182(b)(2) was intended to preclude the adoption of source-specific rules.

Thus, where CTG-subject sources are located within those areas of a state where RACT applies under Part D of the Act, the state is obligated to impose RACT for the same universe of sources covered by the CTG. However, that obligation is not required to be met by the adoption and submittal of a source category RACT rule. A state may, instead, opt to impose RACT for such sources in permits, plan approvals, consent orders or in any other state enforceable document and submit those documents to EPA for approval as source-specific SIP revisions. This option has been exercised by many states, and happens most commonly when only a few CTG-subject sources are located in the state. The source-specific approach is generally employed to avoid what can be a lengthy and resource-intensive state rule adoption process for only a few sources that may have different needs and considerations that must be taken into account.

As stated earlier, there is one source category explicitly included in PennFuture's comment for which EPA has issued a CTG, namely natural gas/gas processing plants. The Commonwealth made a negative declaration to EPA on April 13, 1993, stating that as of that date there were no applicable sources in this category. Therefore, the Commonwealth did not adopt a category RACT regulation for natural gas/gas processing plants.

D. Comment: PennFuture cites EPA correspondence [letter from Marcia Spink, EPA, to James Salvaggio, DEP, December 15, 1993] to the Commonwealth which states that establishing any dollar figure in RACT guidance will not provide for the ''automatic'' selection or rejection of a control technology or emission limitation as RACT for a source or source category. With regard to the Pennsylvania DEP's intent to finalize a NO_X RACT Guidance Document for implementation of its NO_X RACT regulation, EPA's 1993 letter stated that the document could improperly be used to establish ''bright line'' or ''cook-book'' approaches, particularly for a regulation applicable to many source categories and suggested that if the guidance document must include dollar figures/ton, it provide approximate ranges by source category. PennFuture comments that DEP issued its ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions,'' March 11, 1994, and on pp. 8–9 states that the acceptable threshold is $1500 per ton, and that this figure applies to ''all source categories.'' PennFuture notes that EPA later objected to the $1500 per ton methodology as ''not generically acceptable to EPA'' [letter from Thomas Maslany, EPA, to James Salvaggio, DEP, June 24, 1997] and further stated in a **Federal Register** notice that a ''dollar per ton threshold'' is ''inconsistent with the definition of RACT'' [62 FR 43134, 37–38 (1997)].

PennFuture comments that EPA is proposing to approve RACT determinations based on a cost per ton method that EPA had previously rejected, and according to its own clearly expressed standard, EPA must not approve RACT determinations by Pennsylvania DEP that apply this $1500 per ton threshold. The commenter states that PennFuture's review of several of the current DEP evaluations indicate that the Commonwealth applied this standard and provides the examples of Duquesne Light—Elrama (auxiliary boiler); Allegheny Ludlum—Washington (formerly Jessop Steel). PennFuture asserts EPA must reject all

Pennsylvania RACT determinations applying the standard of $1500 per ton, or any other ''bright line'' approach, as failing to follow EPA procedures established for Pennsylvania RACT.

Response: EPA still takes the position that a single cost per ton dollar figure may not, in and of itself, form the basis for rejecting a control technology, equipment standard, or work practice standard as RACT. The Technical Support Document prepared by EPA in support of its March 23, 1998 rulemaking [63 FR 13789] clearly indicates that the Commonwealth's document, ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions.'' March 11, 1994, had not been included as part of the SIP submission of the Commonwealth's generic regulation and, therefore, had not been approved by EPA. EPA further notes that the Administrative Record of the March 23, 1998 rulemaking [63 FR 13789], in addition to the correspondence cited by PennFuture, also includes correspondence from DEP to EPA [letter from James Salvaggio, DEP to David Arnold, EPA, September 10, 1997] stating that DEP's RACT guidance document does not establish a maximum dollar per ton for determining the cost effectiveness for RACT determinations and notes that the DEP's $1500 per ton cost effectiveness is a target value and not an absolute maximum. For example, in its analyses of the cost effectiveness of RACT control options submitted by DEP as part of the case-by-case SIP revision for Peoples Natural Gas (PNG) Valley Compressor Station's turbo charged lean burn IC engine (see the Administrative Record for 66 FR 43492), the Commonwealth included DEP interoffice memoranda (Thomas Joseph to Krishnan Ramamurthy, July 14, 1994 and Krishnan Ramamurthy to Thomas McGinley, Babu Patel, Ronald Davis, Richard Maxwell, and Devendra Verma, July 15, 1994) which spoke directly to the $1500/ton dollar figure as being a guideline and not an upper limit. These memoranda explain that although PNG initially proposed intermediate original equipment manufacturer (OEM) combustion controls which would have reduced NO_X emissions from 254.7 tons per year to 115 tons per year (by 55%) at a cost of $1355 per ton reduced, DEP required the installation of an OEM lean combustion modification that reduced NO_X emissions from 254.7 tons per year to 76 tons per year (by 69%) at a cost of $1684 per ton reduced. The DEP's July 15, 1994 interoffice memorandum says of the PNG RACT determination which exceeded the cost effectiveness screening level of $1500 per ton ''Tom's (Joseph) insistence for the next more stringent level of control than the company's chosen level in the case of PNG was consistent with EPA Region III's sentiment that establishing any dollar figure in RACT guidance will not provide for an ''automatic'' rejection of a control technology as RACT for a source.''

In no instance, including that for Duquesne Light—Elrama (auxiliary boiler) and Allegheny Ludlum—Washington (formerly Jessop Steel), has EPA proposed to approve a RACT determination submitted by the Commonwealth which was based solely on a conclusion that controls that cost more than $1500/ton were not required as RACT. As explained in the response provided in section II. A. of this document, EPA conducts its review of the entire case-by-case RACT SIP submittal including the source's proposed RACT plan and analyses, Pennsylvania's analyses and the RACT plan approval, consent order or permit itself to insure that the requirements of the SIP-approved generic RACT have been followed. These analyses not only evaluate and consider the costs of potential control options, but also evaluate their technological feasibility.

E. Comment: PennFuture comments that any emission reduction credits (ERCs) earned by sources subject to RACT must be surplus to all applicable state and federal requirements. Under Pennsylvania law, ERCs must be surplus, permanent, quantified, and Federally enforceable. 25 Pa.Code 127.207(1). As to the requirement that ERCs be surplus, the Pennsylvania Code states: ERCs shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emission limitation or compliance plans. Emission reductions necessary to meet NSPS, LAER, RACT, Best Available Technology, BACT and permit or plan approval emissions limitations or another emissions limitation required by the Clean Air Act or the [Air Pollution Control Act] may not be used to generate ERCs. 25 Pa.Code 127.207(1)(i). To be creditable, ERCs must surpass not only RACT requirements but a host of other possible sources of emission limits. PennFuture comments that some of the RACT evaluations at issue in the current EPA notices purport to establish RACT as a baseline for future ERCs. PennFuture does acknowledge that EPA notes in its boilerplate for the notices, that Pennsylvania and EPA have established a series of NO_X-reducing rules, including the recent Chapter 145 rule, to reduce NO_X at large utility and industrial sources. See, for example, 66 FR 42415, 16–17 (August 13, 2001). Because any ERCs must be surplus to the most stringent limitation applicable under state or federal law as described in the Pennsylvania Code provision set forth above, DEP and EPA must not approve ERCs unless they surpass all such limitations in addition to any limits set by RACT.

Response: EPA agrees with this comment by PennFuture. The approval of a case-by-case RACT determination, in and of itself, does not establish the baseline from which further emission reductions may be calculated and assumed creditable under the Commonwealth's SIP-approved NSR and ERC program. Moreover, EPA's review of the Pennsylvania DEP's implementation of its approved SIP-approved NSR and ERC program indicates that the Commonwealth calculates and credits ERCs in accordance with the SIP-approved criteria for doing so as outlined in PennFuture's comment. No source for which EPA is approving a case-by-case RACT determination should assume that its RACT approval alone automatically establishes the baseline against which it may calculate creditable ERCs.

F. Comment: PennFuture comments that as in the case with Pennsylvania Power—Newcastle, EPA should compare RACT proposals to applicable acid rain program emission limits and control strategies. PennFuture contends that EPA previously disapproved a RACT proposal for the Pennsylvania Power—Newcastle plant [62 FR 43959 (1997); 63 FR 23668 (1998)] and that EPA did so on the basis that the acid rain program requires more stringent emission limits. PennFuture asserts that while EPA had originally proposed to approve this proposal, an analysis of comparable boilers and, especially, a comparison to Phase II emission limits under the acid rain program led EPA to conclude that the RACT proposal emission limits were too lenient. [62 FR at 43961]. Therefore, PennFuture contends that for sources subject to the acid rain program, EPA should consider emissions and control strategies for compliance with acid rain emission limits when evaluating proposals for compliance with RACT.

Response: Title IV of the Act, addressing the acid rain program, contains NO_X emission requirements for utilities which must be met *in addition to* any RACT requirements (see NO_X Supplement to the General Preamble at

57 FR 55625, November 25, 1992). The Act provides for a number of control programs that may affect similar sources. For example, new sources may be subject to new source performance standards (NSPS), best available control technology (BACT), and lowest achievable emission rate (LAER). Other controls, under such programs as the acid rain program or the hazardous air pollutant program may also apply to sources. However, the applicability of these other requirements, which are often more stringent than RACT, do not establish what requirements must apply under the RACT program. While these programs may provide information as to the technical and economic feasibility of reduction programs for RACT, there is no presumption that acid rain controls should be mandated as RACT.

EPA stated in the final disapproval of the NO_X RACT determination for PPNC [63 FR at 23669], that the discussion concerning average emission rates for boilers with respect to the acid rain program requirements were included in order to provide a context for EPA's proposed disapproval. EPA made clear in its August 18, 1997 proposed disapproval of Pennsylvania Powers'—Newcastle (PPNC) RACT determination, that the basis for disapproval was a comparison between PPNC's boilers and other similar combustion units, not acid rain limits. In fact, EPA stated in the August 18, 1997 proposed disapproval that ''Without additional knowledge or information, it would be erroneous and premature to conclude that the limits in the acid rain permit are RACT.'' [62 FR at 43961]. EPA clearly stated in the final disapproval for PPNC that it did not use acid rain permit limits, or Pennsylvania's participation in any other NO_X control program, to determine PPNC RACT approvability [63 FR at 23670]. Nor has EPA intended to use participation in NO_X control programs including acid rain, in determining RACT for PPNC or any other subject sources. EPA also stated that the April 30, 1998, PPNC disapproval was based on the absence of pertinent information regarding a computerized combustion optimization system through an enforceable permit, not comparison of acid rain permit limits.

III. Final Action

EPA is approving the SIP revisions to the Pennsylvania SIP submitted by PADEP to establish and require NO_X RACT for four major sources located in the Pittsburgh area. EPA is approving Pennsylvania's RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in its SIP-approved RACT regulations. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sufficient to determine compliance with the applicable RACT determinations.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control NO_X from four

individual steel facilities in the Pittsburgh-Beaver Valley nonattainment area in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(163) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(163) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO_X RACT, submitted by the Pennsylvania Department of Environmental Protection on April 9, 1999 and July 5, 2001.

(i) *Incorporation by reference.*

(A) Letter submitted on April 9, 1999 by the Pennsylvania Department of Environmental Protection transmitting source-specific RACT determinations in the form of operating permits.

(B) Operating permits (OP) for the following sources:

(*1*) Lukens Steel Corporation, Houston Plant; OP 63–000–080, effective date 02/22/99, except for the Permit Term and conditions 13.—16., inclusive.

(*2*) Allegheny Ludlum Steel Corporation, West Leechburg Plant; OP 65–000–183, effective date 03/23/99, except for the Permit Term.

(*3*) Allegheny Ludlum Corporation, Jessop Steel Company Washington Plant; OP 63–000–027, effective date 03/26/99, except for the Permit Term and conditions 11.—14., inclusive.

(C) Letter submitted on July 5, 2001 by the Pennsylvania Department of Environmental Protection transmitting source-specific RACT determinations in the form of operating permits.

(D) Koppel Steel Corporation, Koppel Plant's OP 04–000–059, effective date, 3/23/01, except for the Permit Term.

(ii) *Additional materials.* Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraphs (c)(163)(i)(B) and (D) of this section.

* * * * *

[FR Doc. 01–25735 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4165; FRL–7080–2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

EFFECTIVE DATE: This final rule is effective on October 31, 2001.

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

FOR FURTHER INFORMATION CONTACT: Marcia Spink, (215) 814–2104 or by e-mail at spink.marcia epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 21, 1996, July 1, 1997, April 9, 1999, and April 19, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO_X. This rulemaking pertains to 10 of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approvals (PAs) and operating permits (OPs) issued by PADEP, and agreement upon consent orders (COs) issued by the Allegheny County Health Department (ACHD) which impose VOC and/or NO_X RACT requirements for each source. These sources are all located in the Pittsburgh area and consist of Anchor Glass Container Corp.; Anchor Hocking Specialty Glass Co.; Corning Consumer Products Co.; General Electric Company; Glenshaw Glass Company, Inc.; Guardian Industries, Corp.; Allegheny County Sanitary Authority; Browning-Ferris Ind.; Chambers Development Company; and Kelly Run Sanitation.

On August 24, 2001, EPA published a direct final rule (66 FR 44532) and a companion notice of proposed rulemaking (66 FR 44580) to approve these SIP revisions. On September 7, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On September 28, 2001 (66 FR 49539), we published a timely withdrawal in the **Federal Register** informing the public that the direct final rule did not take effect. We indicated in our August 24, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 44580). This is that subsequent final rule. A description of the RACT determination(s) made for each source was provided in the August 24, 2001 direct final rule and will not be restated here. A summary of the comments submitted by PennFuture germane to this final rulemaking and EPA's responses are provided in Section II of this document.

II. Public Comments and Responses

The Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on twenty proposed rules published by EPA in the **Federal Register** between August 6 and August 24, 2001 to approve case-by-case RACT SIP submissions from the Commonwealth for NO_X and or VOC sources located in the Pittsburgh area. PennFuture's letter includes general comments and comments specific to

EPA's proposals for certain sources. A summary of those comments and EPA's responses germane to this rulemaking are provided below.

A. Comment: PennFuture comments that EPA has conducted no independent technical review, and has prepared no technical support document to survey potential control technologies, determine the capital and operating costs of different options, and rank these options in total and marginal cost per ton of NO_X and VOC controlled. In citing the definition of the term ''RACT,'' and the Strelow Memorandum [Roger Strelow, Assistant Administrator for Air and Waste Management, EPA, December 9, 1976, cited in *Michigan* v. *Thomas*, 805 F.2d 176, 180 (6th Cir. 1986) and at 62 FR 43134, 43136 (1997)], PennFuture appears to comment that in every situation, RACT must include an emission rate. PennFuture asserts that EPA should conduct its own RACT evaluation for each source, or at a minimum document a step-by-step review demonstrating the adequacy of state evaluations, to ensure that appropriate control technology is applied. The commenter also believes that EPA's failure to conduct its own independent review of control technologies has resulted in our proposing to approve some RACT determinations that fail to meet the terms of EPA's own RACT standard.

Response: On March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of NO_X and VOCs,* requires subject facilities to submit a RACT plan proposal to both the Pennsylvania Department of Environmental Protection (DEP) and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements.* Under subsection 129.92, that proposal is to include, among other information: (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92 (b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision.

The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by-case RACT determinations by the DEP. Rather, EPA stated that ''* * * RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources.''

On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. In that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. EPA received no public comments on its action and that final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status. On August 24, 2001 (66 FR 44578), EPA proposed to remove the limited nature of its approval of Pennsylvania's generic RACT regulation in the Pittsburgh area. EPA received no public comments on that proposal. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Pittsburgh-Beaver area *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

EPA agrees that it has an obligation to review the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA does not agree, however, that this obligation to review the case-by-case RACT determinations submitted by Pennsylvania necessarily extends to our performing our own RACT analyses, independent of the sources' RACT plans/analyses (included as part of the case-by-case RACT SIP revisions) or the Commonwealth's analyses. EPA first reviews this submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT for a specific source. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then EPA may add additional EPA-generated analyses to the record.

While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (The publication numbers for these CTG documents may be found at *http://www.epa.gov/ttn/catc/dir1/ctg.txt).*

EPA disagrees with PennFuture's general comment that our failure to conduct our own independent review of control technologies for every case-by-case RACT determination conducted by the Commonwealth has resulted in our proposing to approve some RACT determinations that fail to meet the terms of our own RACT standard. PennFuture submitted comments specific to the case-by-case RACT determinations for only three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island stations. EPA

summarizes those comments and provides responses in the final rule pertaining to those sources.

B. Comment: PennFuture comments that when EPA reviewed Pennsylvania's RACT program, it noted that Pennsylvania coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour ''are some of the largest NO_X emitting sources in the Commonwealth and in the Northeast United States' [63 FR 13789, 13791 (1998)] and as such should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93) to guarantee that sources would achieve quantifiable emissions reductions under the RACT program. PennFuture goes on to comment that because EPA has not conducted and documented a technical review of Pennsylvania case-by-case RACT submissions, EPA has not demonstrated that these large boilers are subject to ''numeric emission limitations'' under RACT. EPA must conduct a thorough RACT evaluation or review for each such source, and must document the application of numeric emission limits and quantifiable reductions for each coal-fired boiler with a rated heat input of over 100 million Btu per hour.

Response: Circumstances may exist wherein a state could justify otherwise, however, in general, EPA agrees with PennFuture that coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93).

As provided in the response found in II. A, EPA does not agree that it must conduct its own technical analysis of each of the case-by-case RACT determinations submitted for each RACT source in order to document that its RACT requirements include numeric emission limitations. That determination can be made by EPA when it reviews the plan approval, consent order, or permit issued to such a source as submitted by the Commonwealth as SIP revision. PennFuture's comment did not point to a specific instance where a RACT plan approval, consent order or permit imposing RACT on a coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour did, in fact, lack a numerical emission limitation(s). Nonetheless, pursuant to PennFuture's comment, EPA has re-examined all of the case-by-case RACT SIP submissions made by the Commonwealth for such sources located in the Pittsburgh area. That re-examination, combined with information provided by the Commonwealth, indicates that each case-by-case RACT plan approval, consent order and/or permit for each coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour includes a numeric emission limitation. A listing of each source, its plan approval, consent order and/or permit number and its numerical emission limitation has been placed in the Administrative Records for the case-by-case RACT rulemakings for the Pittsburgh area.

C. Comment: PennFuture asserts that the Commonwealth has not adopted and submitted category RACT rules for all VOC source categories for which federal control technique guidelines (CTGs) have been issued. The commenter refers to Appendix 1 of the Technical Support Document (dated May 14, 2001), prepared by EPA in support of its proposed rule to redesignate the Pittsburgh-Beaver Valley Ozone Nonattainment Area (66 FR 29270), to assert that EPA has failed to require the Commonwealth to submit VOC RACT rules for certain categories of sources. PennFuture specifically names source categories such as equipment leaks from natural gas/gas processing plants, coke oven batteries, iron and steel foundries, and publicly owned treatment works and asserts that the Commonwealth has neglected a statutory requirement to adopt category RACT regulations for these and 14 other unnamed VOC source categories.

Response: EPA has not issued CTGs for coke oven batteries, iron and steel foundries and publicly owned treatment works. The Appendix 1, referred to by the commenter, lists CTG covered categories as well as source categories taken from two STAPPA/ALAPCO documents entitled, ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act—A Menu of Options' (September 1993) and ''Controlling Nitrogen Oxides Under the Clean Air Act—A Menu of Options'' (July 1994). The categories referenced by PennFuture are not VOC categories for which EPA has issued CTGs, but were included in Appendix A as examples of some of the types of sources that could be subject to Pennsylvania's generic RACT regulations.

The Commonwealth is under no statutory obligation to adopt RACT rules for source *categories* for which EPA has not issued a CTG. In fact, CTGs do not exist for all but one of the categories to which the commenter explicitly refers.

The Act requires that states adopt regulations to impose RACT for ''major sources of VOC,'' located within those areas of a state where RACT applies under Part D of the Act [182(b)(2)(C)]. This is referred to as the non-CTG VOC RACT requirement. Moreover, EPA disagrees that there is a statutory mandate that a state adopt a source category RACT regulation even for a source category where EPA has issued a CTG. There are two statutory provisions that address RACT for sources covered by a CTG. One provides that states must adopt RACT for ''any category of VOC sources'' covered by a CTG issued prior to November 15, 1990 [182(b)(2)(A)]. The other provides that states must adopt VOC RACT for all ''VOC sources'' covered by a CTG issued after November 15, 1990 [182(b)(2)(B)]. EPA has long interpreted the statutory RACT requirement to be met either by adoption of category-specific rules or by source-specific rules for each source within a category. When initially established, RACT was clearly defined as a case-by-case determination, but EPA provided CTG's to simplify the process for states such that they would not be required to adopt hundreds or thousands of individual rules. See Strelow Memorandum dated December 9, 1976 and 44 FR 53761, September 17, 1979. EPA does not believe that Congress' use of ''source category'' in one provision of section 182(b)(2) was intended to preclude the adoption of source-specific rules.

Thus, where CTG-subject sources are located within those areas of a state where RACT applies under Part D of the Act, the state is obligated to impose RACT for the same universe of sources covered by the CTG. However, that obligation is not required to be met by the adoption and submittal of a source category RACT rule. A state may, instead, opt to impose RACT for such sources in permits, plan approvals, consent orders or in any other state enforceable document and submit those documents to EPA for approval as source-specific SIP revisions. This option has been exercised by many states, and happens most commonly when only a few CTG-subject sources are located in the state. The source-specific approach is generally employed to avoid what can be a lengthy and resource-intensive state rule adoption process for only a few sources that may have different needs and considerations that must be taken into account.

As stated earlier, there is one source category explicitly included in PennFuture's comment for which EPA has issued a CTG, namely natural gas/gas processing plants. The Commonwealth made a negative declaration to EPA on April 13, 1993, stating that as of that date there were no

applicable sources in this category. Therefore, the Commonwealth did not adopt a category RACT regulation for natural gas/gas processing plants.

D. Comment: PennFuture cites EPA correspondence [letter from Marcia Spink, EPA, to James Salvaggio, DEP, December 15, 1993] to the Commonwealth which states that establishing any dollar figure in RACT guidance will not provide for the ''automatic'' selection or rejection of a control technology or emission limitation as RACT for a source or source category. With regard to the Pennsylvania DEP's intent to finalize a NO_X RACT Guidance Document for implementation of its NO_X RACT regulation, EPA's 1993 letter stated that the document could improperly be used to establish ''bright line'' or ''cook-book'' approaches, particularly for a regulation applicable to many source categories and suggested that if the guidance document must include dollar figures/ton, it provide approximate ranges by source category. PennFuture comments that DEP issued its ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions,'' March 11, 1994, and on pp. 8–9 states that the acceptable threshold is $1500 per ton, and that this figure applies to ''all source categories.'' PennFuture notes that EPA later objected to the $1500 per ton methodology as ''not generically acceptable to EPA'' [letter from Thomas Maslany, EPA, to James Salvaggio, DEP, June 24, 1997] and further stated in a **Federal Register** notice that a ''dollar per ton threshold'' is ''inconsistent with the definition of RACT'' [62 FR 43134, 37–38 (1997)].

PennFuture comments that EPA is proposing to approve RACT determinations based on a cost per ton method that EPA had previously rejected, and according to its own clearly expressed standard, EPA must not approve RACT determinations by Pennsylvania DEP that apply this $1500 per ton threshold. The commenter states that PennFuture's review of several of the current DEP evaluations indicate that the Commonwealth applied this standard and provides the examples of Duquesne Light—Elrama (auxiliary boiler); Allegheny Ludlum—Washington (formerly Jessop Steel). PennFuture asserts EPA must reject all Pennsylvania RACT determinations applying the standard of $1500 per ton, or any other ''bright line'' approach, as failing to follow EPA procedures established for Pennsylvania RACT.

Response: EPA still takes the position that a single cost per ton dollar figure may not, in and of itself, form the basis for rejecting a control technology, equipment standard, or work practice standard as RACT. The Technical Support Document prepared by EPA in support of its March 23, 1998 rulemaking [63 FR 13789] clearly indicates that the Commonwealth's document, ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions.'' March 11, 1994, had not been included as part of the SIP submission of the Commonwealth's generic regulation and, therefore, had not been approved by EPA. EPA further notes that the Administrative Record of the March 23, 1998 rulemaking [63 FR 13789], in addition to the correspondence cited by PennFuture, also includes correspondence from DEP to EPA [letter from James Salvaggio, DEP to David Arnold, EPA, September 10, 1997] stating that DEP's RACT guidance document does not establish a maximum dollar per ton for determining the cost effectiveness for RACT determinations and notes that the DEP's $1500 per ton cost effectiveness is a target value and not an absolute maximum. For example, in its analyses of the cost effectiveness of RACT control options submitted by DEP as part of the case-by-case SIP revision for Peoples Natural Gas (PNG) Valley Compressor Station's turbo charged lean burn IC engine (see the Administrative Record for 66 FR 43492), the Commonwealth included DEP interoffice memoranda (Thomas Joseph to Krishnan Ramamurthy, July 14, 1994 and Krishnan Ramamurthy to Thomas McGinley, Babu Patel, Ronald Davis, Richard Maxwell, and Devendra Verma, July 15, 1994) which spoke directly to the $1500/ton dollar figure as being a guideline and not an upper limit. These memoranda explain that although PNG initially proposed intermediate original equipment manufacturer (OEM) combustion controls which would have reduced NO_X emissions from 254.7 tons per year to 115 tons per year (by 55%) at a cost of $1355 per ton reduced, DEP required the installation of an OEM lean combustion modification that reduced NO_X emissions from 254.7 tons per year to 76 tons per year (by 69%) at a cost of $1684 per ton reduced. The DEP's July 15, 1994 interoffice memorandum says of the PNG RACT determination which exceeded the cost effectiveness screening level of $1500 per ton '' Tom's (Joseph) insistence for the next more stringent level of control than the company's chosen level in the case of PNG was consistent with EPA Region III's sentiment that establishing any dollar figure in RACT guidance will not provide for an ''automatic'' rejection of a control technology as RACT for a source.''

In no instance, including that for Duquesne Light—Elrama (auxiliary boiler) and Allegheny Ludlum—Washington (formerly Jessop Steel), has EPA proposed to approve a RACT determination submitted by the Commonwealth which was based solely on a conclusion that controls that cost more than $1500/ton were not required as RACT. As explained in the response provided in section II. A. of this document, EPA conducts its review of the entire case-by-case RACT SIP submittal including the source's proposed RACT plan and analyses, Pennsylvania's analyses and the RACT plan approval, consent order or permit itself to insure that the requirements of the SIP-approved generic RACT have been followed. These analyses not only evaluate and consider the costs of potential control options, but also evaluate their technological feasibility.

E. Comment: PennFuture comments that any emission reduction credits (ERCs) earned by sources subject to RACT must be surplus to all applicable state and federal requirements. Under Pennsylvania law, ERCs must be surplus, permanent, quantified, and Federally enforceable. 25 Pa.Code 127.207(1). As to the requirement that ERCs be surplus, the Pennsylvania Code states: ERCs shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emission limitation or compliance plans. Emission reductions necessary to meet NSPS, LAER, RACT, Best Available Technology, BACT and permit or plan approval emissions limitations or another emissions limitation required by the Clean Air Act or the [Air Pollution Control Act] may not be used to generate ERCs. 25 Pa.Code 127.207(1)(i). To be creditable, ERCs must surpass not only RACT requirements but a host of other possible sources of emission limits. PennFuture comments that some of the RACT evaluations at issue in the current EPA notices purport to establish RACT as a baseline for future ERCs. PennFuture does acknowledge that EPA notes in its boilerplate for the notices, that Pennsylvania and EPA have established a series of NO_X-reducing rules, including the recent Chapter 145 rule, to reduce NO_X at large utility and industrial sources. See, for example, 66 FR 42415, 16–17 (August 13, 2001). Because any ERCs must be surplus to the most stringent limitation applicable under state or federal law as described

in the Pennsylvania Code provision set forth above, DEP and EPA must not approve ERCs unless they surpass all such limitations in addition to any limits set by RACT.

Response: EPA agrees with this comment by PennFuture. The approval of a case-by-case RACT determination, in and of itself, does not establish the baseline from which further emission reductions may be calculated and assumed creditable under the Commonwealth's SIP-approved NSR and ERC program. Moreover, EPA's review of the Pennsylvania DEP's implementation of its approved SIP-approved NSR and ERC program indicates that the Commonwealth calculates and credits ERCs in accordance with the SIP-approved criteria for doing so as outlined in PennFuture's comment. No source for which EPA is approving a case-by-case RACT determination should assume that its RACT approval alone automatically establishes the baseline against which it may calculate creditable ERCs.

F. Comment: PennFuture comments that as in the case with Pennsylvania Power—Newcastle, EPA should compare RACT proposals to applicable acid rain program emission limits and control strategies. PennFuture contends that EPA previously disapproved a RACT proposal for the Pennsylvania Power—Newcastle plant [62 FR 43959 (1997); 63 FR 23668 (1998)] and that EPA did so on the basis that the acid rain program requires more stringent emission limits. PennFuture asserts that while EPA had originally proposed to approve this proposal, an analysis of comparable boilers and, especially, a comparison to Phase II emission limits under the acid rain program led EPA to conclude that the RACT proposal emission limits were too lenient. (62 FR 43961). Therefore, PennFuture contends that for sources subject to the acid rain program, EPA should consider emissions and control strategies for compliance with acid rain emission limits when evaluating proposals for compliance with RACT.

Response: Title IV of the Act, addressing the acid rain program, contains NO_X emission requirements for utilities which must be met *in addition to* any RACT requirements (see NO_X Supplement to the General Preamble at 57 FR 55625, November 25, 1992). The Act provides for a number of control programs that may affect similar sources. For example, new sources may be subject to new source performance standards (NSPS), best available control technology (BACT), and lowest achievable emission rate (LAER). Other controls, under such programs as the acid rain program or the hazardous air pollutant program may also apply to sources. However, the applicability of these other requirements, which are often more stringent than RACT, do not establish what requirements must apply under the RACT program. While these programs may provide information as to the technical and economic feasibility of reduction programs for RACT, there is no presumption that acid rain controls should be mandated as RACT.

EPA stated in the final disapproval of the NO_X RACT determination for PPNC (63 FR 23669), that the discussion concerning average emission rates for boilers with respect to the acid rain program requirements were included in order to provide a context for EPA's proposed disapproval. EPA made clear in its August 18, 1997 proposed disapproval of Pennsylvania Powers'—Newcastle (PPNC) RACT determination, that the basis for disapproval was a comparison between PPNC's boilers and other similar combustion units, not acid rain limits. In fact, EPA stated in the August 18, 1997 proposed disapproval that ''Without additional knowledge or information, it would be erroneous and premature to conclude that the limits in the acid rain permit are RACT.'' (62 FR at 43961). EPA clearly stated in the final disapproval for PPNC that it did not use acid rain permit limits, or Pennsylvania's participation in any other NO_X control program, to determine PPNC RACT approvability (63 FR at 23670). Nor has EPA intended to use participation in NO_X control programs including acid rain, in determining RACT for PPNC or any other subject sources. EPA also stated that the April 30, 1998, PPNC disapproval was based on the absence of pertinent information regarding a computerized combustion optimization system through an enforceable permit, not comparison of acid rain permit limits.

G. Comment: Corning-Charleroi—PennFuture comments that in its RACT review memorandum, DEP found that the conversion of Tank #11 at the Corning Consumer Products plant in Charleroi to full gas/oxygen firing with a 30% electric boost exceeded RACT requirements and thus the reductions achieved in excess of RACT were eligible for ERCs. [Memorandum, Review of RACT Application and ERC Registry Application, Barbara Hatch, DEP, September 26, 1995.] PennFuture notes that EPA staff critiqued this finding based on the lack of ''an adequate economic demonstration that the costs of gas/oxygen firing were higher than those of controls generally considered RACT.'' [Letter from Ray Chalmers, EPA, to John Slade, DEP, March 25, 1999, p. 1.] PennFuture further notes that EPA also questioned the baseline used for the RACT/ERC determination, and pointed out that ''Corning would appear not to be eligible for ERCs'' if NO_X emission inventory data were used to determine the baseline. PennFuture contends, therefore, that unless DEP has provided specific additional information to EPA justifying its findings on RACT and the emissions baseline, EPA must not permit the installation of this technology to be the basis for any ERCs.

Response: The Pennsylvania DEP has provided specific additional information justifying its RACT determination for the Corning-Charleroi plant's Tank #11 which has been placed in the Administrative Record for this rulemaking. That information consists of a March 11, 1998 letter from Corning Incorporated with enclosures labeled Exhibits A—D which provide supplemental technical and economic analyses of the overall conversion of Tank #11 from a gas/air fired regenerative furnace to a gas/oxy direct fired furnace. The information provided also indicates that the redesign and rebuild of Tank #11 to a gas/oxy direct fired furnace results in reduction of natural gas consumption from 27, 600 cfh to 17, 000 cfh. The conversion's capital investment and associated costs when compared to the total tons of NO_X reduced result in a cost figure of $2589 per ton of VOC reduced. EPA has concluded that the DEP's RACT determination for this installation is consistent with EPA's interpretation that RACT represents controls that are technically and economically feasible. definitions, provisions and procedures of it SIP-approved generic RACT regulation. EPA does agree with PennFuture that regardless of the SIP-approved RACT determination, Pennsylvania's SIP-approved NSR and ERC Program would not allow DEP to approve ERCs from any source where the claimed emission reductions were calculated from a baseline higher than the emissions data of the relevant pollutant for that source in the nonattainment area's baseline inventory used to develop control strategy SIPs (e.g., the rate of progress plans and attainment demonstration). Such reductions would not pass the test of being surplus. Moreover, if additional requirements beyond RACT, such as MACT, were to be promulgated and applicable to the RACT subject source or process; the emission reductions achieved between complying with

RACT and the new more stringent requirements would not be eligible as ERCs under Pennsylvania's SIP-approved NSR and ERC Program.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_X RACT for ten major of sources located in the Pittsburgh area. EPA is approving these RACT SIP submittals because PADEP and ACHD established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The Commonwealth and the County have also imposed record-keeping, monitoring, and testing requirements on these sufficient to determine compliance with the applicable RACT determinations.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from ten individual sources in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(167) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(167) Revisions pertaining to VOC and NO_X RACT for major sources, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on March 21, 1996, July 1, 1997, April 9, 1999 and April 19, 2001.

(i) Incorporation by reference.

(A) Letters dated March 21, 1996, July 1, 1997, April 9, 1999 and April 19, 2001 submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals, operating permits, and consent orders.

(B) Plan approvals (PA), Operating permits (OP), or Consent Orders (CO) for the following sources:

(*1*) Anchor Glass Container Corporation., Plant 5, PA–26–000–119, effective December 20, 1996.

(*2*) Anchor Hocking Specialty Glass Co., Phoenix Glass Plant, OP–04–000–084, effective October 13, 1995.

(*3*) Corning Consumer Products Company, Charleroi Plant., PA–63–000–110, effective January 4, 1996, except for the third sentence of condition 3 (which references condition 13), and conditions 5, 6, 7, 13 in their entirety.

(*4*) General Electric Company, CO–251, effective December 19, 1996, except for condition 2.5.

(*5*) Glenshaw Glass Company, Inc., CO–270, effective March 10, 2000, except for condition 2.5.

(*6*) Guardian Industries, Corp., CO–242, effective August 27, 1996, except for conditions 2.5.

(*7*) Allegheny County Sanitary Authority, CO–222, effective May 14, 1996, except for condition 2.5.

(*8*) Browning-Ferris Industries., Findlay Township Landfill, CO–231A, effective April 28, 1997, except for condition 2.5.

(*9*) Chambers Development Company, Monroville Borough Landfill, CO–253, effective December 30, 1996, except for condition 2.5.

(*10*) Kelly Run Sanitation, Forward Township Landfill, CO–236, effective January 23, 1997, except for condition 2.5.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(167)(i)(B) of this section.

[FR Doc. 01–25577 Filed 10–15–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. 233, FRL–7084–3]

Approval and Promulgation of Implementation Plans; New York Ozone State Implementation Plan Revision; Delay of Effective Date and Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delay of effective date and extension of comment period.

SUMMARY: Due to the tragic events of September 11, 2001 and the resulting temporary closure of the Region 2 office of the Environmental Protection Agency (EPA) in New York City and the disruption of mail delivery and telephone service, the EPA is extending the comment period of a revision to the New York State Implementation Plan and delaying the effective date.

DATES: The effective date of the direct final rule published on September 25, 2001 at 66 FR 48957 is delayed until December 17, 2001 unless adverse comments are received by November 15, 2001. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007–1866.

Copies of the State submittals are available for inspection at the Region 2 office in New York City. Those interested in inspecting these submittals must arrange an appointment in advance by calling (212) 637–4249. Alternatively, appointments may be arranged via e-mail by sending a message to Paul Truchan at *truchan.paul@epa.gov* or Kirk Wieber at *wieber.kirk@epa.gov.* The office address is 290 Broadway, Air Programs Branch, 25th Floor, New York, New York 10007–1866.

Copies of the state submittals are also available for inspection at the state office: New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd floor, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, telephone, (212) 637–4249.

Dated: October 9, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–25960 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA041–4178; FRL–7083–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Requirements for Volatile Organic Compounds and Nitrogen Oxides in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is removing the limited status of its approval of the Commonwealth of Pennsylvania State Implementation Plan (SIP) revision that requires all major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) to implement reasonably available control technology (RACT) as it applies in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is proposing to convert its limited approval of Pennsylvania's VOC and NO_X RACT regulations to full approval because EPA has approved all of the case-by-case RACT determinations submitted by Pennsylvania for the affected sources located in the Pittsburgh area. The intended effect of this action is to remove the limited nature of EPA's approval of Pennsylvania's VOC and NO_X RACT regulations as they apply in the Pittsburgh area.

EFFECTIVE DATE: This final rule is effective on November 15, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marcia Spink , (215) 814–2104 or by e-mail at spink.marcia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 24, 2001 (66 FR 44578), EPA published a notice of proposed rulemaking (NPR) for the State of Pennsylvania. The NPR proposed to remove the limited status of EPA's approval of the Commonwealth of Pennsylvania SIP revision that requires all major sources of VOC and NO_X to implement reasonably available control technology (RACT) as it applies in the Pittsburgh area. The rationale for EPA's proposed action is explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is converting its limited approval of Pennsylvania's generic VOC and NO_X RACT regulations, 25 Pa Code Chapter 129.91 through 129.95, to full approval

as they apply in the seven-county Pittsburgh-Beaver Valley ozone nonattainment area. EPA has approved all of the case-by-case RACT determinations submitted by PADEP for affected major sources of NO_X and/or VOC sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties, the seven counties that comprise the Pittsburgh area.

III. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action converting EPA's limited approval of Pennsylvania's generic VOC and NO_X RACT regulations, 25 Pa Code Chapter 129.91 through 129.95, to full approval as they apply in the seven-county Pittsburgh-Beaver Valley ozone nonattainment area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone.

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2027 is amended by adding the following paragraph (a) to read as follows:

§ 52.2027 Approval Status of Pennsylvania's Generic NO_X and VOC RACT Rules

(a) Effective November 15, 2001, EPA removes the limited nature of its approval of 25 PA Code of Regulations, Chapter 129.91 through 129.95 (see § 52.2020 (c)(129)) as those regulations apply to the Pittsburgh-Beaver Valley area. Chapter 129.91 through 129.95 of Pennsylvania's regulations are fully approved as they apply in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties, the seven counties that comprise the Pittsburgh-Beaver Valley area.

(b) [Reserved]

[FR Doc. 01–25898 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket# VT–020–1223a; FRL–7077–4A]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA publishes regulations under sections 111(d) and 129 of the Clean Air Act requiring states to submit plans to EPA. These plans show how states intend to control the emissions of designated pollutants from designated

facilities. On June 5, 2001, the State of Vermont submitted a negative declaration adequately certifying that there are no small municipal waste combustors (small MWCs) located within its boundaries. EPA is approving Vermont's negative declaration.

DATES: This direct final rule is effective on December 17, 2001 without further notice unless EPA receives significant, material and adverse comment by November 15, 2001. If EPA receives adverse comment by the above date, we 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: You should address your written comments to: Mr. Steven Rapp, Chief, Air Permits Program Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023.

Copies of the documents 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, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: John J. Courcier, (617) 918–1659.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Action Is EPA Taking Today?

EPA is approving the negative declaration of air emissions from small MWCs submitted by the State of Vermont.

EPA is publishing this negative declaration 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**, EPA is publishing a separate document that will serve as the proposal to approve this negative declaration should relevant adverse comments be filed. If EPA receives no significant, material, or adverse comment by November 15, 2001, this action will be effective December 17, 2001.

If EPA receives significant, material, and adverse comments by the above date, we will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register** that will withdraw this final action. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If EPA receives no comments, this action will be effective December 17, 2001.

II. What Is the Origin of the Requirements?

Under section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, subpart B which require states to submit plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

III. When Did the Small MWC Requirements First Become Known?

On August 30, 1999 (64 FR 47233), EPA proposed emission guidelines for small MWC units with an individual unit capacity of 35 to 250 tons per day. This action would enable EPA to list small MWCs as designated facilities. EPA specified particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins/furans as designated pollutants by proposing emission guidelines for existing small MWCs. These guidelines were published in final form on December 6, 2000 (65 FR 76378).

IV. When Did Vermont Submit Its Negative Declaration?

On June 5, 2001, the Vermont Agency of Natural Resources (ANR) submitted a letter certifying that there are no existing small MWCs subject to 40 CFR part 60, subpart B. EPA is publishing this negative declaration at 40 CFR 62.11460. Section 62.06 provides that when no such designated facilities exist within a state's boundaries, the affected state may submit a letter of ''negative declaration'' instead of a control plan.

V. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

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

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

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate

environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's action does not create any new requirements. Thus, the action will not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Negative declaration approvals under section 111(d) of the Clean Air Act do not create any new requirements for any entity affected by this rule, including small entities. Furthermore, in developing the small MWC emission guidelines and standards, EPA prepared a written statement pursuant to the Regulatory Flexibility Act which it published in the 1997 promulgation notice (*see* 62 FR 48348). In accordance with EPA's determination in issuing the 1997 small MWC emission guidelines, this negative declaration approval does not include any new requirements that will have a significant economic impact on a substantial number of small entities.

Therefore, because this approval does not impose any new requirements and pursuant to section 605(b) of the Regulatory Flexibility Act, the Regional Administrator certifies that this rule will not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

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

EPA has determined that this approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Thus, this action is not subject to the requirements of sections 202, 203, 204, and 205 of the Unfunded Mandates Act.

G. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

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

In approving or disapproving negative declarations under section 129 of the Clean Air Act, EPA does not have the authority to revise or rewrite the State's declaration, so the Agency does not have authority to require the use of particular voluntary consensus standards. Accordingly, EPA has not sought to identify or require the State to use voluntary consensus standards. Therefore, the requirements of the NTTAA are not applicable to this final rule.

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. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)). EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after

the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 62

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

Dated: September 26, 2001.

Robert W. Varney,

Regional Administrator, Region 1.

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart UU—Vermont

2. Subpart UU is amended by adding a new § 62.11460 and a new undesignated center heading to read as follows:

* * * * *

Municipal Waste Combustor Emissions From Existing Small Municipal Waste Combustors With the Capacity To Combust Between 35 and 250 Tons per day of Municipal Solid Waste

§ 62.11460 Identification of Plan-negative declaration.

On June 5, 2001, the Vermont Agency of Natural Resources submitted a letter certifying that there are no existing small municipal waste combustors in the state subject to the emission guidelines under part 60, subpart B of this chapter.

[FR Doc. 01–25963 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7083–8]

Project XL Site-Specific Rulemaking for Weyerhaeuser Company Flint River Operations; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical corrections.

SUMMARY: This document contains technical corrections to the final site-specific rule published in the **Federal Register** of Wednesday, June 27, 2001 for the Weyerhaeuser Company's Flint River Operations in Oglethorpe, Georgia (Weyerhaeuser). The June 27, 2001 final rule approved revisions to the National Emission Standards for Hazardous Air Pollutants (NESHAP) which control hazardous air pollutant (HAP) emissions from the pulp and paper industry for Weyerhaeuser's Flint River Operations as one of EPA's steps to implement Weyerhaeuser's XL Project.

Today's rule corrects typographical errors in two dates that appear in the June 27, 2001, final rule.

EFFECTIVE DATE: October 16, 2001.

ADDRESSES: A docket containing supporting information used in developing the final Project XL Site-Specific Rule for Weyerhaeuser and this technical correction is available on the world wide web at *http://www.epa.gov/ProjectXL.* It is also available for public inspection and copying at the Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta Georgia, 30303; and at the Environmental Protection Agency Headquarters, 401 M Street, SW., Room 307 A West Tower, Washington, DC 20460. Persons wishing to view the materials at the Georgia location are encouraged to contact Mr. Lee Page in advance at (404) 562–9131. Persons wishing to view the materials at the Washington, DC location are encouraged to contact Ms. Kristina Heinemann in advance at (202) 260–5355. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Page, Environmental Protection Agency, Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, Atlanta, GA, 30303, 404–562–9131 and *page.lee@epa.gov.*

SUPPLEMENTARY INFORMATION: Today's action corrects the final Project XL Site-Specific Rule approving revisions to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) which concern the control of hazardous air pollutant (HAP) emissions from the pulp and paper industry. This action applies only to the Weyerhaeuser Company's Flint River Operations in Oglethorpe, Georgia.

I. Description of the Technical Corrections

EPA proposed the site-specific rule for Weyerhaeuser on March 27, 2001. EPA proposed to add a new § 63.459 to 40 CFR part 63, subpart S. The introductory language to proposed § 63.459(a)(2) read: ''The owner or operator of the pulping system shall control total HAP emissions from equipment systems listed in paragraphs (a)(2)(i) through (a)(2)(ix) of this section as specified in § 63.443(c) and (d) of this subpart no later than April 16, 2002.'' The introductory language to proposed § 63.459(a)(3) read: ''The owner or operator of the pulping system shall operate the isothermal Cooking system at the site while pulp is being produced in the continuous digester at any time after April 16, 2002.'' Inadvertently, when EPA published the final rule on June 27, 2001 (66 FR 34119), the date April 16, 2001 was used in both these sections instead of the date April 16, 2002, that had been used in the proposed rule. April 16, 2002 is the correct date. This action corrects these two typographical errors.

II. Administrative Requirements

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), applicable to this rule under section 307(d)(1) of the Clean Air Act, 42 U.S.C. 7607(d)(1), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial in nature, and are consistent with the proposed rule and thus do not substantively change what was intended by EPA for the requirements of the June 27, 2001, revision to the Pulp and Paper NESHAP for Weyerhaeuser Company's Flint River Operations in Oglethorpe, Georgia. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). In addition, under section 112(d)(10) of the Clean Air Act, 42 U.S.C. 7412(d)(10), today's technical correction is effective immediately. (In the preamble to the June 27, 2001, final rule, EPA inadvertently made a good cause finding under 5 U.S.C. 553(d)(3) and 42 U.S.C. 6930(b)(3), making the June 27, 2001, final rule effective upon publication. The June 27, 2001, final rule should have referred to section 112(d)(10) of the Clean Air Act, rather than to 5 U.S.C. 553(d)(3) and 42 U.S.C. 6930(b)(3), as the authority for making the final rule immediately effective.)

EPA's compliance with various statutes and Executive Orders for the underlying rule is discussed in the June 27, 2001 final rule (66 FR 34119).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability affecting just one private sector facility.

List of Subjects in 40 CFR Part 63

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

Dated: October 10, 2001.

Thomas J. Gibson,

Associate Administrator, Office of Policy, Economics and Innovation.

For the reasons set out in the preamble, title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry—[AMENDED]

2. Section 63.459 is amended by revising the introductory text in paragraphs (a) (2) and (3) to read as follows:

§ 63.459 Alternative standards.

* * * * *

(2) The owner or operator of the pulping system shall control total HAP emissions from equipment systems listed in paragraphs (a)(2)(i) through (a)(2)(ix) of this section as specified in § 63.443(c) and (d) of this subpart no later than April 16, 2002.

* * *

(3) The owner and operator of the pulping system shall operate the Isothermal Cooking system at the site while pulp is being produced in the continuous digester at any time after April 16, 2002.

* * * * *

[FR Doc. 01–25967 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[DC–T5–2001–01a; FRL–7085–8]

Clean Air Act Full Approval of Operating Permit Program; District of Columbia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to fully approve the operating permit program of the District of Columbia. The District of Columbia's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted final interim approval of the District of Columbia's operating permit program on August 7, 1995. The District of Columbia amended its operating permit program to address deficiencies identified in the interim approval action and this action approves those amendments. Any parties interested in commenting on this action granting full approval of the District of Columbia's title V operating permit program should do so at this time. A more detailed description of the District of Columbia's submittals and EPA's evaluation are included in a Technical Support Document (TSD) in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

DATES: This rule is effective on November 30, 2001 without further notice, unless EPA receives adverse written comment by November 15, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Paresh R. Pandya, Permits and Technical Assessment Branch at (215) 814–2167 or by e-mail at *pandya.perry@.epa.gov.*

SUPPLEMENTARY INFORMATION: On May 21, 2001, August 30, 2001, and September 26, 2001, the District of Columbia submitted amendments to its State operating permit program. These amendments are the subject of this document and this section provides additional information on the amendments by addressing the following questions:

What is the State operating permit program?
What are the State operating permit program requirements?
What is being addressed in this document?
What is not being addressed in this document?
What changes to the District of Columbia's operating permit program is EPA approving?
What action is being taken by EPA?

What Is the State Operating Permit Program?

The Clean Air Act Amendments of 1990 required all States to develop operating permit programs that meet certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain 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 (PM10); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; 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 (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification.

What Are the State Operating Permit Program Requirements?

The minimum program elements for an approvable operating permit program are those mandated by title V of the Clean Air Act Amendments of 1990 and established by EPA's implementing regulations at title 40, part 70—''State Operating Permit Programs'' in the Code of Federal Regulations (40 CFR part 70). Title V required state and local air pollution control agencies to develop operating permit programs and submit them to EPA for approval by November 15, 1993. Under title V, State and local air pollution control agencies that implement operating permit programs are called ''permitting authorities''.

Where an operating permit program substantially, but not fully, met the program approval criteria outlined at 40 CFR part 70, EPA granted interim approval contingent on the permitting authority revising its program to correct those programmatic deficiencies that prevented full approval. The District of Columbia's original operating permit program substantially, but not fully, met the requirements of 40 CFR part 70. Therefore, EPA granted final interim approval of the program in a rulemaking published on August 7, 1995. [See 60 FR 40101.] The interim approval notice identified 29 outstanding deficiencies that had to be corrected in order for the District of Columbia's program to receive full approval. On May 21, 2001, August 30, 2001, and September 26, 2001, the District of Columbia submitted amendments to its operating permit program to EPA to address its outstanding program deficiencies.

The District of Columbia's May 21, 2001, August 30, 2001, and September 26, 2001 submittals satisfy the District's requirement to submit program amendments to EPA for action by December 1, 2001. After December 1, 2001, those jurisdictions lacking fully-approved operating permit programs will, by operation of law, be subject to a federal operating permit program implemented by EPA under 40 CFR part 71 [See 65 FR 32035, dated May 22, 2000].

What Is Being Addressed in This Document?

On May 21, 2001, August 30, 2001, and September 26, 2001, the District of Columbia submitted amendments to its currently EPA-approved title V operating permit program. In general, the District of Columbia amended its operating permit program regulations to address deficiencies identified by EPA when it granted final interim approval of the District of Columbia's program in 1995.

What Is Not Being Addressed in This Document?

On December 11, 2000, EPA announced a 90-day comment period for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs. [See 65 FR 77376.] The public was able to comment on all currently-approved operating permit programs, regardless of whether they have been granted full or interim approval. The December 11, 2000 notice instructed the public to not include in their comments any program deficiencies that were previously identified by EPA when the subject program was granted interim approval. Since those program deficiencies have already been identified and permitting authorities have been working to correct them, EPA will solicit comments when taking action on those corrective measures.

The EPA stated that it will consider information received from the public pursuant to the December 11, 2000 notice and determine whether it agrees or disagrees with the purported deficiencies. Where EPA agrees there is a deficiency, it will publish a notice of deficiency consistent with 40 CFR 70.4(i) and 40 CFR 70.10(b). The Agency will at the same time publish a notice identifying any alleged problems that we do not agree are deficiencies. For programs that have not yet received full approval, such as the District of Columbia's program, EPA will publish these notices by December 1, 2001.

The EPA received numerous comments in response to the December 11, 2000 notice announcing the start of the 90-day public comment period. As part of those comments, EPA Region III received comments germane to the District of Columbia's currently-approved operating permit program. The Agency will respond to those comments in a separate notice(s) by December 1, 2001 as required by the December 11, 2000 notice.

The EPA is not addressing any comments received pursuant to the December 11, 2000 notice in this document. As mentioned above, comments provided in accordance with the December 11, 2000 notice were to address shortcomings that had not previously been identified by EPA as deficiencies necessitating interim, rather than full, approval of a state's operating permit program. This action granting full approval of the District of Columbia's operating permit program only addresses program deficiencies identified when EPA granted interim approval to the District of Columbia's program in 1995. Therefore, any persons wishing to comment on this action should do so at this time.

What Changes to the District of Columbia's Program Is EPA Approving?

The EPA has reviewed the District of Columbia's May 21, 2001, August 30, 2001, and September 26, 2001 program amendments in conjunction with the portion of the District of Columbia's program that was earlier approved on an interim basis. Based on this review, EPA is granting full approval of the District of Columbia's amended operating permit program. The EPA has determined that the amendments to the District of Columbia's operating permit program adequately address the 29 deficiencies identified by EPA in its August 7, 1995 rulemaking granting interim approval. The District of Columbia's operating permit program, including the amendments submitted on May 21, 2001, August 30, 2001, and September 26, 2001, fully meets the minimum requirements of 40 CFR part 70.

Changes to the District of Columbia's Program That Correct Interim Approval Deficiencies

The interim approval deficiencies identified by EPA in 60 FR 40101 (August 7, 1995) are listed in each of the 29 headings below.

1. Rename District of Columbia Municipal Regulations 20 DCMR 399.1 Definition of ''Emissions Emissions'' to ''Fugitive Emissions''

The District of Columbia revised 20 DCMR 399.1 to properly identify the definition of ''fugitive emissions.''

2. Revise 20 DCMR 399.1 Definition of ''Title I Modification or Modification Under Any Provision of Title I of the Act'' To Include Changes Reviewed Under Minor New Source Review (if EPA Establishes Such a Change in Definition Through Rulemaking)

Since EPA has yet to revise the definition of a ''Title I modification'' to include changes subject to minor new source review, the District's current regulations are consistent with 40 CFR part 70. Should EPA revise this definition in the future, the District will be required to revise its regulations as appropriate.

3. Modify 20 DCMR 301.1(b)(6)(B) To Clarify That Applications for Permit Renewal Must Contain Both a Compliance Plan and a Compliance Certification

The District of Columbia has revised 20 DCMR 301.1(b)(6) to add a new section 301.1(b)(6)(C) that requires permit renewal applications to contain compliance certifications, as specified by section 301.3(i). Compliance plans continue to be required by 20 DCMR 301.1(b)(6)(B). This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(c)(1)(i) with regard to permit renewal requirements.

4. Revise 20 DCMR 301.3(c)(1) To Ensure That All Applicable Requirements Will Be Described in Permit Applications

Title 20 DCMR 301.3(c)(1) contained the following exception regarding permit application requirements ''* * * except where the units are exempted under this subsection or section 300.2''. The District of Columbia revised section 301.3(c)(1) to delete this language related to exemptions. By removing this statement, all applicable requirements must be described in permit applications, without exception. This revision makes the District of Columbia's program consistent with 40 CFR 70.5(c).

5. Revise 20 DCMR 301.3(g) To Correct Misreferenced Sections of the District's Regulations Which Address Alternate Operating Scenarios and Emissions Trading

Title 20 DCMR 301.3(g) contained two misreferenced sections. An incorrect reference to section 302.1(i) has been changed to 302.1(j) regarding alternative operating scenarios and an incorrect reference to section 302.1(j) has been changed to 302.1(k) regarding defining permit terms and conditions allowing emissions trading. This amendment makes the District of Columbia's program consistent with 40 CFR 70.5(c)(7), 70.4(b)(12)(iii), and 70.6 (a)(10).

6. Revise 20 DCMR 301.3(h)(3)(C) To Clarify That Any Schedule of Compliance Shall Be Supplemental to and Shall Not Sanction Noncompliance With the Applicable Requirements on Which It Is Based

The District of Columbia revised 20 DCMR 301.3(h)(3)(C) to include the following language: ''Any schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.'' This amendment makes the District of Columbia's program consistent with 40 CFR 70.5(c)(8)(iii)(C).

7. Revise 20 DCMR 302.1(k) To Clarify That Terms and Conditions for the Trading or Averaging of Emissions Must Meet All Applicable Requirements and the Requirements of the Operating Permits Program

The District of Columbia revised 20 DCMR 302.1(k) to include the following language: ''The terms and conditions for the trading or averaging of emissions shall meet all applicable requirements and the requirements of the operating permits program.'' This amendment makes the District of Columbia's program consistent with 40 CFR 70.6(a)(10)(iii).

8. Renumber 20 DCMR 302.3(e)(6) to 302.3(f)

The District of Columbia renumbered 20 DCMR 302.3(e)(6) to 302.3(f).

9. Revise 20 DCMR 302.4(e) To Clarify That Requests for Coverage Under a General Permit Must Meet the Permit Application Requirements of Title V of the Clean Air Act, and Include All Information Necessary To Assure Compliance With the General Permit

The District of Columbia revised 20 DCMR 302.4(e) to require subject sources to meet the general permit qualification criteria and application requirements and that sources covered by the general permit must be in compliance with the general permit. This amendment makes the District of Columbia's program consistent with 40 CFR 70.6(d)(2).

10. Restructure 20 DCMR 302.8 Pertaining to Operational Flexibility in Accordance With the Structure of 40 CFR Part 70 Operational Flexibility Provisions

The EPA indicated that the District should restructure 20 DCMR 302.8 pertaining to operational flexibility in accordance with the structure of 40 CFR part 70 provisions for operational flexibility. The District of Columbia provided a legal opinion on the adequacy of its air quality regulations regarding operational flexibility dated September 26, 2001. In its legal opinion, the District compared each of the requirements of 40 CFR 70.4(b)(12) to the requirements in 20 DCMR 302.8. The District's legal opinion clarifies that the District's regulations pertaining to operational flexibility are functionally equivalent to the federal requirements. With the clarifying opinion from the District, the restructuring of section 302.8 is not necessary. The District of Columbia's program is consistent with 40 CFR 70.4 with regard to operational flexibility.

11. With Respect to 20 DCMR 302.8, Clarify That Compliance With Emissions Trading Provisions in a Permit Will Be Determined According to Requirements of the Applicable State Implementation Plan (SIP)/Federal Implementation Plan (FIP) or Applicable Requirements Authorizing the Emissions Trade

The District of Columbia provided a legal opinion on the adequacy of its air quality regulations regarding operational flexibility dated September 26, 2001. The District's legal opinion states that 20 DCMR 302.8 is substantially similar to 40 CFR 70.4(b)(12). One of the purposes of 20 DCMR 302.8(b) and 40 CFR 70.4(b)(12)(ii)(B) is to enable permitted sources to trade increases and decreases in emissions. However, the federal regulations explicitly provide that the trades shall be determined according to requirements of the applicable implementation plan authorizing the emissions trade. The District's regulations refer to compliance with ''applicable requirements'' instead of directly referencing the District's SIP. The term ''applicable requirements,'' however, is a defined term in 20 DCMR 399 and includes the requirements of the District's approved SIP. The District's legal opinion states that the District's regulations, by requiring emission trades to comply with ''applicable requirements,'' also requires compliance with the District's SIP. Therefore, the District interprets its operational flexibility provisions to require that a source wishing to trade emissions first have that authority under the District's SIP and provide written notice of that authority pursuant to the SIP. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.4 with regard to emissions trading.

12. Revise 20 DCMR 303.1(f) and 303.1(d)(1) To Ensure That the Part 70 Permit Issuance Deadlines Will Be Met

Title 20 DCMR 303.1(f) provides that the Mayor shall transmit a proposed permit, permit modification, or renewal to the Administrator no later than 45 days before the appropriate deadline for permit issuance. Section 303.1(d)(1) provides that the proposed permit, modification, or renewal shall be issued no later than 45 days preceding the respective deadlines for permit issuance, modifications and renewals. The District of Columbia revised 20 DCMR 303.1(f) and 303.1(d)(1) to ensure that the part 70 permit issuance deadlines will be met. This amendment makes the District of Columbia's program consistent with 40 CFR 70.4(b)(6).

13. Modify 20 DCMR 303.3(a) To Clarify That Public Participation and EPA and Affected State Review Will Apply to the Entire Draft Renewal Permit, Including Those Portions Which Are Incorporated by Reference

The District of Columbia revised 20 DCMR 303.3(a) to clarify that applications for permit renewal and renewal permits in their entirety must be subject to the same procedural requirements, including those for public participation, affected state review and EPA review that apply to initial permit issuance. This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(c)(1)(i).

14. Revise 20 DCMR 303.5(d)(1) To Require the Use of the Significant Permit Modification Procedures for any Type of Change Which Does Not Qualify as Either a Minor Permit Modification or an Administrative Amendment

The District of Columbia revised 20 DCMR 303.5(d)(1) by adding 303.5(d)(1)(E) requiring that significant modification procedures shall be used for applications requesting permit modifications that do not qualify as administrative permit amendments or minor permit modifications. This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(e).

15. Revise 20 DCMR 303.10 To Provide for Sending Notice to Persons on a Mailing List Developed by the Permitting Authority, Including Those People Who Request in Writing To Be on the List

The District of Columbia revised the public participation procedures of 20 DCMR 303.10(a) to require the District to send notices of permit actions to persons on a mailing list developed by the Mayor, including those who request in writing to be on the list pursuant to 20 DCMR 303.10(a)(2). This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(h)(1).

16. Revise 20 DCMR 303.10(a)(1)(B) to Require the Notice To Include Procedures To Request a Hearing in the Event That a Hearing Has Not Been Scheduled

The District of Columbia revised 20 DCMR 303.10(a)(1)(B) to establish procedures for the public to request a hearing on a permit action if the Mayor has not scheduled a hearing. This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(h)(2).

17. Revise 20 DCMR 303.10 To Include a Provision That Requires Notice of a Public Hearing at Least 30 Days in Advance of the Hearing

The District of Columbia revised 20 DCMR 303.10(a)(1) by adding 303.10(a)(1)(C) requiring that any notice of a public hearing be published at least 30 days in advance of the hearing. This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(h)(4).

18. Clarify That the Average 1989 Consumer Price Index (CPI) Value Will Be Used for the Purposes of Calculating the CPI Fee Adjustment

Each title V source in the District of Columbia is provided the updated adjusted annual fee calculation each year by the District. The District of Columbia adjusts the annual fee based on the CPI-Urban Index that represents the12-month average from September through August of the following year. The District uses the same presumptive minimum fee that is computed by EPA each year. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.9(b)(2)(iv).

19. Revise 20 DCMR 305.1 To Ensure That Provisions for Equivalent Fee Schedules Are Enforceable as a Practical Matter or Remove Section 305.1 Language ''or the Equivalent Over Some Other Period''

The District of Columbia revised 20 DCMR 305.1 to remove ''or the equivalent over some other period.'' The revised 20 DCMR 305.1 now reads as follows: ''Owners or operators of Part 70 sources shall pay annual fees of twenty-five dollars ($25) per year (as adjusted pursuant to the criteria set forth in section 305.2) times the total tons of actual emissions of each regulated pollutant (for presumptive fee calculation purposes) emitted from Part 70 sources.'' This amendment makes the District of Columbia's program consistent with 40 CFR 70.9.

20. Revise the Corporation Counsel's Opinion to Reference Existing Provisions in District of Columbia Law Which Satisfy the Requirements of 40 CFR 70.11(a)(1) and (2), or Establish Authorities To Restrain or Enjoin Immediately Permit Violators Presenting Substantial Endangerment, and to Seek Injunctive Relief for Program and Permit Violations Without the Need for Prior Revocation of the Permit

The EPA determined that the provisions cited in the Corporation Counsel's opinion of January 13, 1994 did not specifically identify authorities to restrain or enjoin immediately permit violators without the need for prior revocation of the permit. EPA added that if such enforcement authority existed, the District must clearly establish that the authority extends to Chapter 3 of Title 20 DCMR. The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'', cites to several provisions in the District's Air Pollution Control Act implementing regulations and to the Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. section102(a)) that provide the necessary authorities. Specifically, the Corporation Counsel identifies the following authorities in the implementing regulations of the Air Pollution Control Act: (1) 20 DCMR 102.3 provides that the Mayor may seek ''enforcement of this subtitle by injunctive relief or other appropriate remedy; (2) 20 DCMR 401.10 authorizes the Mayor to issue emergency orders forbidding operation where the Mayor finds that a situation is causing or contributing to air pollution, or has the potential to do so; and, (3) 20 DCMR 401.12 provides that nothing shall preclude the Mayor from seeking relief or remedy, other than penalties, that is provided for by law. The Corporation Counsel further states that 20 DCMR 102.3 extends to all chapters in Subtitle A of the Air Pollution Control Act, including Chapter 3. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.11.

21. Amend Subtitle I of 20 DCMR To Specifically Address the Types of Violations for Which Civil Fines Are Recoverable, or Otherwise Have the Corporation Counsel Demonstrate That 20 DCMR 100.6 Applies to Each of the Specific Types of Violations Mentioned in 40 CFR 70.11(a)(3)(i)

EPA requested that the District of Columbia clarify that civil fines are recoverable for the violations enumerated in 40 CFR 70.11(a)(3)(i). The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'', cites to several provisions in its Air Pollution Control Act implementing regulations for the required authority. Specifically, the Corporation Counsel indicates that 20 DCMR 100.6 and 105.1 authorize the imposition of civil fines for each of the violations listed in 40 CFR 70.11(a)(3)(i), including a violation of any applicable requirement as defined in 20 DCMR 399, any permit condition, including any requirement in 20 DCMR 302; any fee or filing requirement as provided in 20 DCMR 301 and 305; any duty to allow or carry out inspection, entry or monitoring activities as provided in 20 DCMR 302.3; or, any regulation or orders issued by the Mayor pursuant to 20 DCMR 102 and 104.10. In addition, according to the Corporation Counsel, 20 DCMR 100.6 and 105.2 authorize the imposition of civil fines, penalties and fees as alternative sanctions for violations of the Air Pollution Control Act's implementing regulations using the process of scheduling and enforcing these fines under the Civil Infractions Act. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.11(a)(3).

22. Establish Civil Enforcement Authority for the Collection of Penalties in a Maximum Amount of Not Less Than $10,000 Per Day Per Violation

EPA requested that the District of Columbia establish civil enforcement authority for the collection of penalties in the maximum amount of not less than $10,000 per day per violation. The District revised 20 DCMR 105.5 to require that ''[i]n the event of any violation of, or failure to comply with, the air quality provisions of this title [which includes Subtitle A thereof, the Air Pollution Control Act's implementing regulations], each and every day of the violation or failure shall constitute a separate offense, and the penalties described in 20 DCMR 105.1 shall be applicable to each separate offense.'' The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'' stated that civil fines are recoverable under 20 DCMR 100.6, 105.1, 105.2, and 105.5 in the amount of $10,000 per day per violation for failure to comply with 20 DCMR including the Air Pollution Control Act's implementing regulations in 20 DCMR Subtitle A as required by 40 CFR 70.11(a)(3)(i). This amendment makes the District of Columbia's program consistent with 40 CFR 70.11(a)(3).

23. Establish Regulatory Provisions for Strict Civil Liability, or Provide a Demonstration From the Corporation Counsel That Mental State Is Not Allowed as an Element of Proof for Civil Violations

With respect to the 20 DCMR 100.6 civil enforcement authority, EPA requested that the District of Columbia clarify that mental state is not allowed as an element of proof for civil violations. The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'' states that 20 DCMR 100.6, 105.1 and 105.2 do not include mental state as an element of proof of civil violations. District laws and regulations enacted to protect the public health and safety (among other purposes), including those of 20 DCMR Subtitle A are generally construed as strict liability violations for purposes of civil proceedings. With this clarification, the District of Columbia's program is consistent with 40 CFR part 70.

24. Amend Subtitle I of 20 DCMR to Specifically Address the Types of Knowing Violations for Which Criminal Fines Are Recoverable, or Have the Corporation Counsel Demonstrate That Section 105.1 Applies to Each of the Specific Types of Knowing Violations Mentioned in 40 CFR 70.11(a)(3)(ii) and (iii)

The EPA requested that the District of Columbia clarify that criminal fines are recoverable for each of the specific types of knowing violations mentioned in 40 CFR 70.11(a)(3)(ii) and (iii). The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'' states that criminal penalties are recoverable under 20 DCMR 105.1 for all the violations enumerated in 40 CFR 70.11(a)(3)(ii), which include any applicable requirement (as defined in 20 DCMR 399); any permit condition (including any requirement in 20 DCMR 302); and, any fee or filing requirement (as provided in 20 DCMR 301 and 305). The Corporation Counsel further states that 20 DCMR 105.1 allows for recovery of criminal penalties for all the violations enumerated in 40 CFR 70.11(a)(3)(iii), which include making a false statement, representation or certification in any form, in any notice or report required by a permit (prohibited by 20 DCMR 105.1) or knowingly rendering inaccurate any required monitoring device or method (prohibited by 20 DCMR 107.1). With this clarification, the District of Columbia's program is consistent with 40 CFR 70.11.

25. Revise Criminal Enforcement Provisions To Authorize the Collection of Penalties in a Maximum Amount of Not Less Than $10,000 Per Day Per Violation

The EPA requested that the District of Columbia revise 20 DCMR 105.1 to provide for the recovery of criminal fines at a maximum amount of $10,000 per day per violation as required by 40 CFR 70.11(a)(3)(i) for the violations enumerated in 40 CFR 70.11(a)(3)(ii) and (iii). The District revised 20 DCMR 105 by adding 105.5. The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'' states that pursuant to 20 DCMR 105.5, ''[i]n the event of any violation of, or failure to comply with, the air quality provisions of this title [which includes Subtitle A thereof, the Air Pollution Control Act's implementing regulations], each and every day of the violation or failure shall constitute a separate offense, and the penalties described in 20 DCMR 105.1 shall be applicable to each separate offense.'' This amendment makes the District of Columbia's program consistent with 40 CFR 70.11(a)(3).

26. Amend 20 DCMR 303.11 To Clarify That When the Mayor Fails To Issue or Deny a Permit Within the Required Deadline, This Failure Can Be Challenged Any Time Before the Permitting Authority Denies the Permit or Issues the Final Permit

The District of Columbia revised 20 DCMR 303.11 by deleting 303.11(c) and restructuring 303.11(a) to clarify that when the Mayor fails to issue or deny a permit within the required deadline, this failure can be challenged any time before the permitting authority denies the permit or issues the final permit. The permit program regulations now provide that no application for judicial review may be filed more than 90 days following the final action on which the review is sought, unless the final action being challenged is the Mayor's failure to take final action, in which case an application for judicial review may be filed any time before the Mayor denies the permit or issues the final permit. This amendment makes the District of Columbia's program consistent with 40 CFR 70.4.

27. Clarify the Specific Responsibilities and Procedures for Coordination Regarding the Engineering and Planning Branch (EPB) and the Compliance and Enforcement Branch (CEB) Involvement in Compliance and Enforcement Activities for Part 70 Sources. Such a Clarification Must Demonstrate That Compliance and Enforcement Activities Will Be Fully Supported by Title V Fees

The District of Columbia's management of its operating permit program is divided between the EPB and the CEB. EPB, under the supervision of the branch chief, is responsible for permit issuance; modifications and renewals; inventory management; and, the annual fee computation. Likewise, under the supervision of the branch chief, CEB is responsible for plant inspections; receipt and review of semi-annual and annual compliance reports and certifications; review and approval of testing protocols; compliance determinations; issuance of citations to violators; participation in hearings; and, transmittal of enforcement data to EPA. Both branches are supported by the Office of the Program Manager (OPM) and the attorney advisor in the Air Quality Division (AQD). Staff from EPB, CEB, and OPM who work on title V activities, including compliance and enforcement activities charge the time expended on such tasks to the title V account to reflect direct salary, fringe benefits and indirect costs (to cover overhead, such as utilities, rental, telephone and supplies). Other AQD supervisors and advisors who provide applicable title V services also charge their time appropriately, inclusive of fringe benefits and indirect costs. The number of hours worked on title V activities during each pay period are submitted on time sheets. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.9(c).

28. Submit Additional Information Regarding How the District Will Monitor and Track Source Compliance or Reference Any Agreement the District Has With EPA That Provides This Information

The District of Columbia's Compliance & Enforcement Branch (CEB) is responsible for ensuring source compliance with the applicable requirements of title V permits. This is accomplished through annual on-site inspections, review of semi-annual and annual certification reports, and pursuit of enforcement actions. Existing EPA and District of Columbia agreements require the District to submit a compliance monitoring strategy, which includes detailed information about sources targeted for inspections. These existing agreements require the District to submit semi-annual enforcement reports, to participate in quarterly enforcement program reviews, and to report inspection compliance and enforcement data. With this clarification, the District of Columbia's program is consistent with 40 CFR part 70.

29. Clarify That Information on the District's Enforcement Activities Will Be Submitted to EPA at Least Annually

The District of Columbia reports enforcement activities, including specific information required by 70.4(b)(9) to EPA primarily by way of the Aerometric Information Retrieval System/AIRS Facility Subsystem (AIRS/AFS). With this clarification, the District of Columbia's program is consistent with 40 CFR part 70.

What Action Is Being Taken By EPA?

The District of Columbia has satisfactorily addressed the program deficiencies identified when EPA granted final interim approval of its operating permit program on August 7, 1995. The operating permit program amendments that are the subject of this document considered together with that portion of the District of Columbia's operating permit program that was earlier approved on an interim basis fully satisfy the minimum requirements of 40 CFR part 70 and the Clean Air Act. Therefore, EPA is taking direct final action to fully approve the District of Columbia title V operating permit program in accordance with 40 CFR 70.4(e).

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the operating permit program approval if adverse comments are filed relevant to the issues discussed in this action. This rule will be effective on November 30, 2001 without further notice unless EPA receives adverse comment by November 30, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Administrative Requirements

A. General Requirements

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

Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action fully approving the District of Columbia's title V operating permit program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

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

Dated: October 10, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

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

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

2. Appendix A to part 70 is amended by adding paragraph (b) to the entry for the District of Columbia to read as follows:

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

* * * * *

District of Columbia

* * * * *

(b) The District of Columbia Department of Health submitted program amendments on May 21, 2001, August 30, 2001, and September 26, 2001. The rule amendments contained in the May 21, 2001, August 30, 2001, and September 26, 2001 submittals adequately addressed the conditions of the interim approval effective on September 6, 1995. The District of Columbia is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–26097 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2560

[WO–350–1410–00–24 1A]

RIN 1004–AD34

Alaska Native Veterans Allotments

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This document amends the final regulations published in the **Federal Register** on Friday, June 30, 2000 (65 FR 16648). The regulation allows certain Alaska Native veterans another opportunity to apply for a Native allotment under the repealed Native Allotment Act of 1906. Congress passed the Alaska Native Veterans Allotment Act in 1998 which mandates regulations to implement it. This action will enable certain Alaska Native veterans who, because of their military service, were not able to apply for an allotment during the early 1970s, to do so now.

EFFECTIVE DATE: This rule is effective on November 15, 2001.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Connie Van Horn, Division of Conveyance Management, Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599; telephone (907) 271–3767; or Kelly Odom, Bureau of Land Management, Regulatory Affairs Group, Mail Stop 401, 1620 L Street, NW.,

Washington, DC 20036; telephone (202) 452–5028. To reach Ms. Van Horn or Ms. Odom, individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339, 24 hours a day, seven days a week.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority.
II. Final Rule as Adopted.
III. Procedural Matters.

I. Statutory Authority

Public Law 106–559 signed by the President on December 21, 2000 amends the Alaska Native Allotment Act of 1998. It:

a. Changes the dates of military service under which an Alaska Native Veteran may be eligible for an allotment by extending the ending date for completing the required six months of military service from June 2, 1971, to December 31, 1971;

b. Extends the dates of military service under which a deceased Alaska Native Veteran may be eligible for an allotment from the original period beginning January 1, 1969, and ending December 31, 1971, to the period beginning August 5, 1964, and ending December 31, 1971;

c. Clarifies that a deceased Alaska Native Veteran must have served in South East Asia during the 1964–1971 time period; and

d. Clarifies that the appropriate Alaska State court must appoint personal representatives to represent deceased eligible veterans.

II. Final Rule as Adopted

We are issuing this final rule because the purpose of the rule is to provide the public with the information concerning changes to previous law which were made in Public Law 106–559. The changes made are specific and allow BLM no discretion. Therefore, public comment on a proposed rule would not be in the public interest; rather comment would delay the fuller, complete, and clear public disclosure we seek.

This final rule follows the changes in Public Law 106–559 by:

(a) Changing the dates of military service under which an Alaska Native Veteran may be eligible for an allotment by extending the ending date for completing the required six months of military service from June 2, 1971, to December 31, 1971;

(b) Extending the dates of military service under which a deceased Alaska Native Veteran may be eligible for an allotment from the original period beginning January 1, 1969, and ending December 31, 1971, to the period beginning August 5, 1964, and ending December 31, 1971;

(c) Clarifying that a deceased Alaska Native Veteran must have served in South East Asia during the 1964–1971 time period and;

(d) Clarifying that the appropriate Alaska State court must appoint personal representatives to represent deceased eligible veterans.

The rule also deletes § 2568.92, *Is there anything else I should consider if I apply for land that is selected by a Native Corporation or by the State of Alaska?* The last sentence of the Section stated ''If BLM does not receive and approve a relinquishment from a Native corporation or the State before the allotment application filing period ends, you cannot file an application for an allotment in a different location and you will not be eligible for an alternative allotment.'' It is true that an applicant would not be able to file a new application in a different location once the filing period ends, but it is not true that an applicant would not be eligible for an alternative allotment. If an applicant is found eligible for an alternative allotment, that eligibility would have nothing to do with the end of the filing period. This section was intended to be a warning of possible risk to applicants, not a statement of a requirement. We have determined that deleting the section, rather than rewording it, is in the public interest. We determined this after considering alternative language which we found would add confusion rather than clarity to the rulemaking.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These final regulations are not a significant regulatory action and were not subject to review by the Office of Management and Budget under Executive Order 12866. These final regulations will not have an effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, of State, local, or tribal governments of communities. These final regulations will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These final regulations do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. The effect of these final regulations will be on a limited number of individuals who are qualified to apply for allotments and on the Interior Department agencies responsible for administering the allotment program. The allotment application period is limited by law to 18 months, and existing staff of responsible agencies will process applications following most of the same rules that are currently in effect for allotment applications under the 1906 Native Allotment Act.

National Environmental Policy Act (NEPA)

Section 910 of the Alaska National Interest Lands Conservation Act (ANILCA) of December 2, 1980, 43 U.S.C. 1638, made conveyances, regulations, and other actions which lead to the issuance of conveyances to Natives under ANCSA exempt from NEPA compliance requirements. Since Congress made the Alaska Native Veterans Allotment Act a part of ANCSA, NEPA does not apply.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This final rule will apply only to certain Alaska Native veterans and specific classes of heirs of Alaskan Native veterans who are eligible to apply for allotments. Therefore, the Department of the Interior certifies that this document will not have any significant impacts on small entities under the RFA.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These final regulations are not a ''major rule'' as defined at 5 U.S.C. 804(2). This final rule does not meet any of the criteria for a ''major rule'' under the definition contained in SBREFA. The final rule will result in some costs to allotment applicants, and to the Department of the Interior to implement the allotment program over the next several years. It will not result in major cost or price increases for consumers, industries, or regions, and the cost increases for government agencies will be small. This final rule will have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The total

annual effect on the economy will be far below $100 million. Based on Department of Veterans Affairs data, BLM estimates that about 1,100 individuals with at least one quarter Alaska Native blood meet the military service criteria in the Alaska Native Veterans law and may be eligible to apply for allotments. If each applicant were to choose the maximum number of land parcels involved would be 2,200. BLM estimates the cost of processing an application for a single allotment parcel does not exceed $25,000, including the cost of adjudication, examination, survey, and conveyance. This estimate is based on the average cost of processing allotment applications originally filed under the Alaska Native Allotment Act of 1906. The total cost to process 2,200 parcels would be $55 million over the life of the program, which is the statutory 18-month application period and as many additional years as necessary to complete all applications. In no case would these costs approximate the $100 million annual impact threshold.

Unfunded Mandates Reform Act

These final regulations do not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year; nor do these final regulations have a significant or unique effect on State, local, or tribal governments or the private sector. The only mandate imposed on State governments will be for the State court appointment of personal representatives in cases involving the estates of certain deceased applicants, but this mandate will cost far below $100 million per year. These final regulations impose no mandate on local or tribal governments or the private sector. Program costs will fall primarily on the Department of the Interior. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. The final rule will allow BLM to convey Federal land only under certain circumstances, and the land containing other applications or entries is specifically forbidden by law from being conveyed to Native veterans. Even if a Native veteran could show use and occupancy of land before another application or entry was made, the Native would have no vested property right until he or she filed an application for an allotment under section 41 of ANCSA. No existing applications or entries or other private property interest will be affected by this proposed rule. Therefore, the Department of the Interior has determined that the rule will not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The final rule will give the State the authority to voluntarily relinquish up to 160 acres of a selection so that a Native veteran can apply for an allotment, but the State is not required to relinquish. Voluntarily relinquishments will have no effect on the State's ability to reach its full acreage entitlement from the Federal government. Native veterans will not be able to apply for land already owned by the State, even if they can show that they used and occupied the land before the State applied for it. Allotments conveyed under section 41 of ANCSA are not taxable, just as allotments conveyed under the 1906 Act are not taxable. Native allotments are conveyed from Federal public land which is not subject to State or local taxation, so conveyance of allotments under this rule will not change tax status or cause any impact on State or local property tax revenue. Therefore, in accordance with Executive Order 12612, BLM has determined that this final rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. Representatives of the State of Alaska and the BLM Alaska have had general discussions on the content of the statute and the final regulations. Representatives of the State of Alaska recognize that lands conveyed to the State are prohibited from land availability under the statute and that the State may relinquish, but is not required to relinquish, a selection to allow a Native veteran to file an allotment application.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that this final rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2 when we initially wrote this rule we consulted with tribes as follows:

Section 41 of ANCSA, which authorizes Native allotments for certain veterans, specifically requires that the Department of the Interior promulgate these regulations ''after consultation with Alaska Natives groups.'' BLM consulted with the Bureau of Indian Affairs throughout the process of the initial rulemaking and held public meetings to discuss the rule with Native entities, including tribes. Native views were solicited very early in the rulemaking process and BLM included all written comments received from tribes and other Native entities in the administrative record for the rule. BLM held additional meetings with Native groups before the regulations became final and considered tribal and other Native views in the final rulemaking. Accordingly:

a. We consulted with affected tribes.

b. Consultations were open and candid so that the affected tribes could fully evaluate the potential impact of the rule on trust resources.

c. We considered tribal views in the final rulemaking.

d. We consulted with the appropriate bureaus and offices of the Department about the potential effects of the rule on tribes. We consulted with the Bureau of Indian Affairs and the Division of Indian Affairs, Office of the Solicitor.

Paperwork Reduction Act

This final rule contains information collection requirements covered under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* All information requirements pertain to an application form whereby Alaska veterans may apply for the benefits described in this final rule. OMB reviewed and approved an information collection package (1004–0191) for the application form (AK 2561–10). Because all the information requirements are contained in the application form and covered by that information collection package, BLM has not prepared a separate information collection package for these regulations.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply Distribution, or Use

This rule is not a significant energy action. It will not have an adverse effect on energy supplies. This final rule will apply only to Alaska Native veterans and to a specific class of Alaskan Native veteran's heir who are eligible to apply for allotments.

Author

The principal author of this rule is Connie Van Horn, Division of Conveyance Management, Bureau of Land Management, Anchorage, Alaska; assisted by Kelly Odom of BLM's Regulatory Affairs Group, Bureau of Land Management, Washington, DC.

List of Subjects in 43 CFR Part 2560

Alaska, Homesteads, Indian Lands, Public Lands, Public Lands-Sale, and Reporting and Recordkeeping requirements, Alaska Native allotments for certain veterans.

Dated: September 28, 2001.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

PART 2560—ALASKA OCCUPANCY AND USE

Accordingly, BLM amends 43 CFR part 2560 as set forth below:

1. The authority citation for part 2560 is revised to read as follows:

Authority: 43 U.S.C. 1601 *et seq.* (ANCSA), as amended; Section 432 of Public Law 105–276, 43 U.S.C. 1629g; Section 301 of Public Law 106–559; the Native Allotment Act of 1906, 34 Stat. 197, as amended, 42 Stat. 415, 70 Stat. 954, 43 U.S.C. 270–1 through 270–3 (1970).

2. Amend § 2568.20 by revising paragraph (b); redesignating paragraphs (c) as paragraph (d); and adding a new paragraph (c) to read as follows:

§ 2568.20 What is the legal authority for these allotments?

* * * * *

(b) Section 432 of Public Law 105–276, the Appropriations Act for the Departments of Veterans Affairs and Housing and Urban Development for fiscal year 1999, 43 U.S.C. 1629g, which amended ANCSA by adding section 41.

(c) Section 301 of Public Law 106–559, the Indian Tribal Justice Technical and Legal Assistance Act of 2000, which amended section 41 of ANCSA.

(d) The Native Allotment Act of 1906, 34 Stat. 197, as amended, 42 Stat. 415 and 70 Stat. 954, 43 U.S.C. 270–1 through 270–3 (1970).

3. Amend § 2568.50 by revising paragraph (c) to read as follows:

§ 2568.50 What qualifications do I need to be eligible for an allotment?

* * * * *

(c) Be a veteran who served at least six months between January 1, 1969, and December 31, 1971, or enlisted or was drafted after June 2, 1971, but before December 3, 1971; and

* * * * *

4. Amend § 2568.60 by revising the introductory paragraph to read as follows:

§ 2568.60 May the personal representatives of eligible deceased veterans apply on their behalf?

Yes. The personal representative or special administrator, appointed in the appropriate Alaska State court proceeding, may apply for an allotment for the benefit of a deceased veteran's heirs if the deceased veteran served in South East Asia at any time during the period beginning August 5, 1964, and ending December 31, 1971, and during that period the deceased veteran:

* * * * *

§ 2568.92 [Removed and Reserved]

5. Remove and reserve § 2568.92.

[FR Doc. 01–25937 Filed 10–15–01; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2326, MM Docket No. 00–100, RM–9860]

Digital Television Broadcast Service; San Antonio, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Alamo Public Telecommunications Council, licensee of noncommercial station KLRN–TV, NTSC channel *9, substitutes DTV channel *8 for DTV channel *20 at San Antonio, Texas. *See* 65 FR 36809, June 12, 2000. DTV channel *8 can be allotted to San Antonio in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (29–19–38 N. and 98–21–17 W.) with a power of 8.3, HAAT of 263 meters and with a DTV service population of 1464 thousand. Since the community of San Antonio is located within 275 kilometers of the U.S.-Mexican border, concurrence of the Mexican government has been obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective November 26, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–100, adopted October 5, 2001, and released October 11, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, 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, Digital television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas, is amended by removing DTV channel *20 and adding DTV channel *8 at San Antonio.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–25917 Filed 10–15–01; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 66, No. 200
Tuesday, October 16, 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

Food Safety and Inspection Service

9 CFR Parts 391, 590, and 592

[Docket No. 01–019P]

RIN 0583–AC89

Increases in Fees for Meat, Poultry, and Egg Products Inspection Services—Fiscal Year (FY) 2002

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to increase the fees that it charges meat and poultry establishments, egg products plants, importers, and exporters for providing voluntary inspection services, overtime and holiday inspection services, identification services, certification services, and laboratory services. These increases in fees reflect the national and locality pay raise for Federal employees (proposed 3.6 percent increase effective January 2002) and inflation. At this time, FSIS is not proposing to amend the fee for the Accredited Laboratory Program. To raise the fees for voluntary egg products inspection (base time) and overtime and holiday voluntary inspection activities, the Agency is proposing to add part 592 to the CFR for voluntary egg products inspection. At this time, FSIS is proposing only to include the fees in this new part. Further, the Agency is proposing to amend the heading of Subchapter I of Chapter III of the CFR by deleting the word ''Act'' so the heading reads ''Egg Products Inspection'' because voluntary inspection of egg products is performed under the Agricultural Marketing Act (AMA).

DATES: The Agency must receive comments by November 15, 2001.

ADDRESSES: Submit one original and two copies of written comments to FSIS Docket Clerk, Docket ı00–019P, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. All comments submitted in response to this proposal will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning policy issues, contact Daniel Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development and Evaluation, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700, (202) 720–5627, fax number (202) 690–0486.

For information concerning fees, contact Michael B. Zimmerer, Director, Financial Management Division, Office of Management, FSIS, U.S. Department of Agriculture, 5601 Sunnyside Avenue, Mail Drop 5262 Beltsville, MD 20705, (301) 504–5885.

SUPPLEMENTARY INFORMATION

Background

The Federal Meat Inspection Act (FMIA)(21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA)(21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*) provide for mandatory Federal inspection of livestock and poultry slaughter at official establishments, and meat and poultry processing at official establishments and of egg products processing at official plants. FSIS bears the cost of mandatory inspection. Establishments and plants pay for inspection services performed on holidays or on an overtime basis.

In addition, under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) (AMA), FSIS provides a range of voluntary inspection, certification, and identification services to assist in the orderly marketing of various animal products and byproducts. These services include the certification of technical animal fats and the inspection of exotic animal products, such as antelope and elk. FSIS is required to recover the costs of voluntary inspection, certification, and identification services.

Under the AMA, FSIS also provides certain voluntary laboratory services that establishments and others may request the Agency to perform. Laboratory services are provided for four types of analytic testing: microbiological testing, residue chemistry tests, food composition tests, and pathology testing. FSIS must recover these costs.

Every year FSIS reviews the fees that it charges for providing overtime and holiday inspection services; voluntary inspection, identification, and certification services; and laboratory services. The Agency performs a cost analysis to determine whether the fees that it has established are adequate to recover the costs that it incurs in providing these services. In the Agency's analysis of projected costs for October 1, 2001 to September 30, 2002, the Agency has identified increases in the costs of these nonmandatory inspection services due specifically to the national and locality pay raise for Federal employees (proposed 3.6 percent increase effective January 2002) and inflation.

FSIS calculated the proposed fees by adding the projected increase in salaries and inflation for FY 2001 and FY 2002 to the actual cost of the services in FY 2000. The Agency calculated inflation to be 2.0% for FY 2001 and 2.0% for FY 2002. The Agency considered the costs that it will incur because of the pay raise in January 2002 and averaged its pay costs out over the entire FY 2002.

FSIS did not use the fees currently charged as a base for calculating the proposed fees for FY 2002 because the current fees are based on estimates of costs to the Agency for FY 2001 and FY 2002. The Agency now knows the actual cost of inspection services for FY 2000 and used the actual costs in calculating the proposed fees.

The current and proposed fees are listed by type of service in Table 1.

TABLE 1.—CURRENT AND PROPOSED FEES—PER HOUR PER EMPLOYEE—BY TYPE OF SERVICE EXCEPT FOR VOLUNTARY INSPECTION OF EGG PRODUCTS

Service	Previous rate	Proposed rate
Base time	$38.44	$42.64
Overtime & holiday ...	41.00	44.40

TABLE 1.—CURRENT AND PROPOSED FEES—PER HOUR PER EMPLOYEE—BY TYPE OF SERVICE EXCEPT FOR VOLUNTARY INSPECTION OF EGG PRODUCTS—Continued

Service	Previous rate	Proposed rate
Laboratory	60.04	68.32

The differing proposed fee increase for each type of service is the result of the different amount that it costs FSIS to provide these three types of services. The differences in costs stem from various factors, including different salary levels of the program employees who perform the services. See Table 2.

TABLE 2.—CALCULATIONS FOR THE DIFFERENT TYPES OF SERVICES

Base time	
Actual FY 2000 cost	$39.67
Inflation and salary increases	2.95
Adjustment for divisibility by quarter hours	.02
Total	42.64
Overtime and Holiday Inspection Services	
Actual FY 2000 cost	41.32
Inflation and salary increases	3.07
Adjustment for divisibility by quarter hours	.01
Total	44.40
Laboratory Services	
Actual FY 2000 cost	63.59
Inflation and salary increases	4.73
Total	68.32

FSIS is also proposing to raise the fees for its voluntary inspection of egg products for base time, which are currently set forth in § 55.510(b) of Title 7 of the Code of Federal Regulations (CFR), from $33.64 to $42.64 per hour per program employee and for overtime and holiday inspection which is currently set forth in section 55.510(c) of Title 7 of the CFR from $35.52 to $44.40 per hour per program employee. The differing proposed fees for basetime services and for holidays and overtime services is due to the different amount that it costs FSIS to provide those services. These differences in cost stem from various factors, which include, the differing salary levels of the program employees who perform the services. These fees have not been changed in six years. Additionally, in conjunction with the proposed fee increase for the voluntary inspection of egg products, FSIS is proposing provisions which delineate what types of services would be considered to be overtime or holiday work.

When the regulations governing the mandatory inspection of egg products were transferred to Title 9 of the Code of Federal Regulations (CFR) on December 31, 1998 (63 FR 72352), the regulations governing the voluntary inspection of egg products were not also transferred. FSIS, however, does perform voluntary inspection of egg products, and certain other products, under the AMA. The Agency is now proposing to add part 592 to title 9 of the CFR which will contain the fees for basetime and overtime and holiday voluntary inspection of egg products, as well as an explanation of what services are considered to be overtime and holiday work. Further, the Agency is proposing to amend the heading of Subchapter I of Chapter III of the CFR by deleting the word ''Act'' so the heading will be ''Egg Products Inspection.''

At this time, FSIS is only proposing to include the base time fee scheme and the overtime and holiday fee scheme for the voluntary inspection of egg products that is done on other than a continuous resident basis in Part 592 of Title 9 of the CFR. In a separate rulemaking, the Agency will propose to include other provisions of the voluntary egg products inspection regulations in title 9 of the CFR. FSIS will coordinate this effort with AMS.

The Agency must recover the actual cost of voluntary inspection services covered by this rule. These fee increases are essential for the continued sound financial management of the Agency's costs. FSIS plans to make the final rule effective in October 2001. To expeditiously make this rulemaking effective so that the increased costs can be recovered in a timely fashion, and because the Agency has previously announced (65 FR 60093) that it would be reviewing these fees on a FY basis, the Administrator has determined that 30 days for public comment is sufficient.

Executive Order 12866 and Regulatory Flexibility Act

Because this final rule has been determined to be not significant, the Office of Management and Budget (OMB) did not review it under Executive Order 12866.

The Administrator, FSIS, has determined that this final rule would not have a significant economic impact, as defined by the Regulatory Flexibility Act (5 U.S.C. 601), on a substantial number of small entities.

Small establishments and plants should not be affected adversely by the increases in fees because the new fee increases provided, in general, for reflect only a small increase in the costs currently borne by those entities that choose to use certain inspection services. Moreover, smaller establishments and plants are unlikely to use a significant amount of overtime and holiday inspection services. The inspection services for which fee increases are proposed are generally used by larger establishments and plants because of their larger production volume, the greater complexity and diversity of the products that they produce, and the need of their clients (large commercial or institutional establishments) for on-time delivery of large volumes of product.

Establishments and plants that seek FSIS services are likely to have calculated that the incremental costs of overtime and holiday inspection services would be less than the incremental expected benefits of additional revenues that they would realize from additional production.

Economic Effects

As a result of the proposed fees, the Agency expects to collect an estimated $101 million in revenues for FY 2002, compared to $94 million under the current fee structure. The costs that industry would experience by the raise in fees are similar to other increases that the industry faces because of inflation and wage increases.

The total volume of meat and poultry slaughtered under Federal inspection in 2000 was about 82 billion pounds (Livestock, Dairy, Meat, and Poultry Outlook Report, Economic Research Service, USDA, March 28, 2001). The total volume of U.S. egg product production in 2000 was about 2.3 billion pounds (2001 Agriculture Statistics, USDA). The increase in cost per pound of product associated with the proposed fees increases is, in general, $.00008. Even in competitive industries like meat, poultry, and egg products, this amount of increase in costs would have an insignificant impact on profits and prices.

The industry is likely to pass through a significant portion of the proposed fee increases to consumers because of the inelastic nature of the demand curve facing these firms. Research has shown that consumers are unlikely to reduce demand significantly for meat and poultry products, including egg products, when prices increase. Huang estimates that demand would fall by .36 percent for a one percent increase in price (Huang, Kao S., A Complete

System of U.S. Demand for Food. USDA/ERS Technical Bulletin No 1821, 1993, p. 24). Because of the inelastic nature of demand and the competitive nature of the industry, individual firms are not likely to experience any change in market share in response to an increase in inspection fees.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule: (1) Preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5, 381.35, and 590.300 through 590.370, respectively, must be exhausted before any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA, PPIA, or EPIA.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this proposed rule, FSIS will announce and provide copies of this **Federal Register** publication in the *FSIS Constituent Update.* FSIS provides a weekly *FSIS Constituent Update* via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience than would be otherwise possible. For more information, or to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

List of Subjects

9 CFR Part 391

Fees and charges, Government employees, Meat inspection, Poultry products.

9 CFR Part 590

Eggs and egg products, Exports, Food labeling, Imports.

9 CFR Part 592

Eggs and egg products, Exports, Food labeling, Imports.

For the reasons set forth in the preamble, FSIS proposes to amend 9 CFR Chapter III as follows:

PART 391—FEES AND CHARGES FOR INSPECTION AND LABORATORY ACCREDITATION

1. The authority citation for part 391 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 394, 1622 and 1624; 21 U.S.C. 451 *et. seq.;* 21 U.S.C. 601–695; 7 CFR 2.18 and 2.53.

2. Sections 391.2, 391.3, and 391.4 are revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 is $42.64 per hour per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5 and 381.38 is $44.40 per hour per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 is $68.32 per hour per program employee.

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

3. The authority citation for Part 590 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

4. Section 590.126 is revised to read as follows:

§ 590.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant must give reasonable advance notice to the inspector of any overtime service necessary and must pay the Agency for such overtime at an hourly rate of $44.40.

5. In § 590.128, paragraph (a) is revised to read as follows:

§ 590.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant must, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and must pay the Agency for such holiday work at an hourly rate of $44.40.

* * * * *

6. Revise the heading of Subchapter I to read as follows:

SUBCHAPTER I—EGG PRODUCTS INSPECTION

7. Add part 592 to Subchapter I to read as follows:

PART 592—VOLUNTARY INSPECTION OF EGG PRODUCTS

Sec.

Authority: 7 U.S.C. 1621–1627.

§ 592.1 Scope and Purpose.

The fees that shall be charged for, and collected by the Food Safety and Inspection Service for the voluntary base time, overtime, and holiday time inspection services of egg products as provided by FSIS on other than a continuous resident basis shall be at the applicable rates and on the basis set forth in §§ 592.2 through 592.4 below, in lieu of that for such services set forth in 7 CFR Part 55. The fees and charges for such services shall be paid by check, draft, or money order to the Food Safety and Inspection Service.

§ 592.2 Base time rate.

The base time rate for voluntary inspection services of egg products is $42.64 per hour per program employee.

§ 592.3 Overtime rate.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant must give reasonable advance notice to the inspector of any overtime service necessary and must pay the Agency for

such overtime at an hourly rate of $44.40.

§ 592.4 Holiday rate.

When an official plant requires voluntary inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant must, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and must pay the Agency for such holiday work at an hourly rate of $44.40.

* * * * *

Done at Washington, DC, on October 10, 2001.

Thomas J. Billy,

Administrator.

[FR Doc. 01–25923 Filed 10–15–01; 8:45 am]

BILLING CODE 3410–DM–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 50

RIN 3150–AG89

Entombment Options for Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering an amendment to its regulations that would clarify the use of entombment for power reactors. The NRC has determined that entombment of power reactors is a technically viable decommissioning alternative and can be accomplished safely. Current regulations governing decommissioning and license termination require that decommissioning be completed within 60 years of permanent cessation of operations. Completion of decommissioning beyond 60 years will be approved by the NRC only when necessary to protect public health and safety. The regulations also establish dose criteria for license termination that includes a provision that permits license termination under restricted and unrestricted release conditions. This advance notice of proposed rulemaking invites early input from affected parties and the public on the issues surrounding the feasibility of entombment.

DATES: The comment period expires December 31, 2001. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: The Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. You may also provide comments via the NRC's interactive rulemaking Web site (*http://ruleforum.llnl.gov*). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

The NRC maintains an Agency wide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Cardile, telephone (301) 415–6185, e-mail *fpc@nrc.gov,* Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

A. Current Rulemakings Related to Decommissioning and License Termination

Current requirements pertaining to decommissioning are contained in 10 CFR part 50. Specific requirements on decommissioning alternatives were published June 27, 1988 (53 FR 24018). These provisions state that the Commission will terminate a license if it determines that the decommissioning has been performed in accordance with an approved decommissioning plan and that terminal radiation surveys and associated documentation demonstrate that the facility and site are suitable for release for unrestricted release. The Supplementary Information (SI) to the 1988 rule defined three broad decommissioning alternatives: DECON, SAFSTOR, and ENTOMB. The term ENTOMB was defined as the alternative, in which radioactive contaminants are encased in a structurally long-lived material, such as concrete; the entombed structure is appropriately maintained; and surveillance is continued until the radioactivity decays to a level permitting termination of the license with unrestricted release.

Currently, 10 CFR 50.82(a)(3) requires that decommissioning be completed within 60 years of permanent cessation of operations, and completion of decommissioning beyond 60 years be approved by the NRC only when necessary to protect public health and safety. The factors that will be considered by the Commission in evaluating an alternative that provides for the completion of decommissioning beyond 60 years of permanent cessation of operation include unavailability of waste disposal capacity and other site-specific factors affecting the licensee's capability to carry out decommissioning, including the presence of other nuclear facilities at the site. In addition, the 1988 rule was structured so that use of any decommissioning option would result in termination of the license for unrestricted use. These requirements tended to favor the use of DECON and SAFSTOR. However, as noted in the SI for the June 27, 1988, final rule, the ENTOMB alternative was not specifically precluded because it was recognized that it might be an allowable alternative in protecting public health and safety.

In 1997, the Commission amended its regulations to establish dose criteria for license terminations. These provisions appear in 10 CFR Part 20, Subpart E, and include a provision that permits license termination under restricted release conditions. Under a restricted release, the dose to the average member of the critical group must not exceed 0.25 mSv/yr (25 mrem/yr) total effective dose equivalent (TEDE) and be as low as reasonably achievable (ALARA) with the restrictions in place, and, if the restrictions were no longer in effect, the dose due to residual radioactivity could not exceed 1 mSv/yr (100 mrem/yr) (or 5 mSv/yr (500 mrem/yr), if additional conditions are met) TEDE and is ALARA. These caps were chosen to provide a safety net in the highly unlikely event that the restrictions failed.

B. Discussion of the Concept of Entombment

Entombment is an alternative method for decommissioning a power reactor that ultimately results in termination of the license. Before the start of entombment, the reactor permanently

ceases operations. The spent fuel is permanently removed from the reactor core and either shipped offsite or stored in an independent spent fuel storage installation. After preliminary decommissioning activities are completed, radioactive contaminants to be left on-site are placed, or left, in the reactor containment building or other structure.

After the radioactive materials are placed in the containment, the material is entombed by designing and constructing engineered barriers that can reliably isolate the radioactive contaminants from the environment. This can be accomplished by suitable hardening to prevent inadvertent intrusion into the containment (e.g., use of concrete capping, or fill materials) and mitigation of transport of radionuclides to the environment (e.g., use of soil, added sorption materials, site considerations).

The length of time that the entombed structure must remain effective in isolating its contents depends on the specific radionuclides present in the entombed structure and the time necessary for those radionuclides to be reduced, through radioactive decay, to a level that is acceptable for license termination.

For radionuclides Cobalt-60 and Cesium-137 (with half-lives of approximately 5.3 and 30 years, respectively), which are the principal dose contributors for reactors, the time estimated to reach the 0.25 mSv/yr (25 mrem/yr) unrestricted use criterion is about 160 and 300 years, respectively. If the long-lived activation products present in reactor internals were included in an entombed structure, the time of isolation for the long-lived activation products will depend not only on their half-lives but other site-specific factors, such as engineered barriers and site characteristics.

Additional information about the entombment concept, including studies and previous NRC papers can be located on the web at *www.nrc.gov/NMSS/IMNS/entombment.html.*

Specific Proposal

The NRC believes that decommissioning a power reactor using the entombment approach appears to be a safe and viable option for many situations, and that it could offer benefits and greater flexibility to accommodate particular site-specific decommissioning situations. In some cases, reactors may be able to achieve decommissioning through an entombment approach to license termination in accordance with the criteria of the license termination rule in 10 CFR part 20, subpart E, and within the 60-year timeframe provided in 10 CFR 50.82(a)(3). However, in other cases, the 60-year provision in § 50.82(a)(3) for completion of decommissioning may need to be revised to reflect the period of time required for reduction in dose to meet the restricted release criteria in 10 CFR part 20, subpart E. Thus, the use of an entombment approach may require changes to the regulatory requirements and guidance before this option can be treated as a generic alternative.

Specific Considerations

Before it prepares a proposed rule on the subject, the NRC is seeking advice and recommendations on this matter from all interested persons. Specific areas on which the Commission is requesting comment are discussed in the following sections. Comments accompanied by supporting reasons are particularly requested on the questions contained in each section.

A. Regulatory Framework and Approaches—Rulemaking Options

Option 1

Do not conduct rulemaking. Currently, 10 CFR 50.82(a)(3) requires that decommissioning be completed within 60 years of permanent cessation of operations. Completion of decommissioning beyond 60 years may be approved by the NRC only when necessary to protect public health and safety. To extend decommissioning based on economic or other non-public health and safety reasons would require an exemption under 10 CFR 50.12.

The advantage of this option is that current regulations already permit case-specific Commission approval for completing license termination beyond 60 years (10 CFR 50.82) based on health and safety considerations. In addition, the current regulations (10 CFR part 20, subpart E) for license termination with restricted release provide dose criteria for decommissioning and, in some cases, could apply to entombment within the existing time frame of 10 CFR 50.82.

The disadvantage of this option is that current 10 CFR part 20 subpart E requirements for license termination with restricted release may not be sufficiently flexible in some cases to achieve license termination within the 60-year period specified, given the limitations for extending the time period. Therefore, this option results in regulating by exemption. Also, additional resources would be requested to process the site-specific exemptions for extension of time if the current rules were used for considering the permissibility of entombment for case-specific situations for other than public health and safety reasons. Another disadvantage is that this option does not address the disposition of Greater Than Class C (GTCC) material, which otherwise might need to be disposed of in an offsite disposal facility. Finally, under 10 CFR part 20, the entombment contains residual radioactivity and is considered to be suitable for license termination. However, under other statutes, the residual radioactivity might be considered low level waste (LLW). Classification of the entombed material as LLW would raise issues concerning State and LLW compact legal authority over the entombment. For example, States and compacts have authority for disposal of LLW and might prescribe means for its disposal other than entombment. In addition, some States have prescribed their own criteria for LLW disposal that may not be compatible with those in an entombment rule.

Option 2

Another option would be to conduct rulemaking to consider the need to add flexibility to 10 CFR 50.82 to amend the 60-year time frame for completion of decommissioning and to clarify the use of engineered barriers for reactor entombments.

Option 2 would modify the 60-year time period for completion of decommissioning activities. Under this option, the ''Statement of Considerations'' could clarify when credit could be taken for engineered barriers, independent of institutional controls, as a method for meeting the established dose criteria found in 10 CFR part 20, subpart E.[1] Engineered barrier system objectives, qualifying criteria, and implementation acceptability by the NRC could be specified in the rule to ensure a high level of confidence that the entombment would continue to isolate the radioactive material until it decays to a level that would be acceptable for restricted or unrestricted release. This option could specifically authorize the use of entombment for power reactors as a decommissioning alternative for license termination.

The advantage of this option is that amending 10 CFR 50.82 would provide more flexibility for terminating a license without the need for exemptions or Commission approval of alternative

[1] Under 20 CFR part 20, subpart E, engineered barriers may be considered institutional controls depending upon the need for and the degree of human involvement to maintain their effectivness. Option 2, unlike Option 1, would clarify this issue.

schedules. It also permits flexibility in defining requirements to meet a broad variety of possible situations, which would result in resource savings. The use of engineered barriers would be clarified in the regulations. Furthermore, terminating the license is more efficient and effective than retaining a disposal license, as proposed by Option 3 below.

The disadvantages of this option are that there may not be a defined time period for license termination and this approach may delay completion of decommissioning and license termination. However, there may be other factors that would motivate timely completion of decommissioning activities, such as continued requirements for payment of fees, insurance, and other resource impacts on licensees. Another disadvantage, as in Option 1, is that Option 2 does not address the disposition of GTCC material, which otherwise might need to be disposed of in an offsite disposal facility. Finally, under 10 CFR part 20, the entombment contains residual radioactivity and is considered to be suitable for license termination. However, under other statutes, the residual radioactivity might be considered LLW. Classification of the entombed material as LLW would raise issues concerning State and LLW compact legal authority over the entombment. For example, States and compacts have authority for disposal of LLW and might prescribe means for its disposal other than entombment. In addition, some States have prescribed their own criteria for LLW disposal that may not be compatible with those in an entombment rule.

Option 3

A third option would be to conduct a rulemaking to establish performance objectives and licensing requirements for an entombed facility. This option can be characterized as disposal, rather than decommissioning leading to license termination. It would provide for a rulemaking to establish performance objectives and technical requirements under a new or existing part of the regulations for an entombed facility. Relevant requirements established in other existing parts of the NRC regulations (e.g., part 20, subpart E, and 10 CFR part 61) could be incorporated into this rulemaking. These requirements could include, but would not be limited to, overall system performance objectives, institutional controls, including Federal or State ownership/oversite, and analyses of the long-term stability of the site. These requirements could also include pathway analysis to demonstrate protection of the average member of the critical group from releases of radioactivity using dose limits, which could include provisions for adequate barriers to prevent inadvertent intrusion. In addition, provisions for engineering features such as barrier controls could be established on a site-specific, license-specific basis. The license could also cover the activities of entombing the radioactive material, operations, and surveillance of controls. Similar to a license under Part 61, the entombed disposal facility would be maintained under an NRC license until the post-closure requirements were met. Also, since the facility would no longer be a licensed power reactor, but rather a new license, this option could apply to other types of facilites.

The advantage of this option is that it would allow for on-site disposal of GTCC waste, since such waste may only be disposed of at an NRC-licensed facility. This option would address a dose analysis period that may be necessary for GTCC waste. It might also provide an approach more acceptable to the public because entombing a large quantity of long-lived isotopes is viewed as more akin to disposal or burial of waste rather than leaving behind residual material in decommissioning. It could also address other license terminations with large source terms requiring extended periods of institutional controls. Furthermore, because no NRC-licensed power reactors have ever been entombed, continuation of an NRC license would permit greater confidence that the dose criteria would be met.

A disadvantage of this option is that it does not terminate the license. It could also require major expenditures of NRC and licensee resources to write a new part to the regulations and to re-license or convert the facility license. It could also require major expenditures to maintain the NRC license over the period of time during which the license would need to be retained. It may have complex policy implications because NRC's responsibility is to license GTCC disposal facilities, subject to DOE's overall responsibilities for disposal strategies of GTCC material. Finally, classification of the entombed material as LLW might raise issues concerning State and LLW compact legal authority over the entombment.

Based on this discussion:

A.1. Does the existing 10 CFR 50.82(a)(3) provide an adequate basis to allow periods of entombment beyond 60 years. If not, in what way should the regulations be changed?

A.2. Is 10 CFR part 20, subpart E, adequate to achieve license termination using an entombment approach? If not, how and why should this rule be modified?

A.3. Should entombed facilities be required to maintain some type of NRC license after the facility meets the dose criteria of part 20, subpart E? If so, what conditions need to prevail before the license may be terminated? What alternatives might exist for adequately managing the radioactive materials left in the entombed structure?

A.4. new part is being considered in the regulations to establish performance objectives and requirements for licensing an entombed disposal facility. Should this option replace subpart E for purposes of entombment or should a licensee have a choice between using Subpart E approach or the entombed facility license approach? Should the dose based criteria for the entombed facility license be based on subpart E dose limits? If not, what should be the basis for those limits.

A.5.Should the entombed facility option be available only to power reactors? If not, under what circumstances should it be applied to other than power reactors?

A.6. Are there other options that the Commission should consider in developing an approach to entombment that will provide for its viability while maintaining the public health and safety?

B. Technical Feasibility Issues

Part 20, Subpart E (10 CFR 20.1403), allows release of a site under restricted conditions if:

(a) Institutional controls are in place to limit the dose from residual radioactivity to less than 0.25 mSv/yr (25 mrem/yr) TEDE and is as low as reasonable achievable (ALARA), and

(b) the radioactivity present has been reduced so that, if the institutional controls were no longer in effect, the dose would be less than 1 mSv/yr (100 mrem/yr) TEDE and is ALARA (5 mSv/yr (500 mrem/yr) is allowed if ''durable institutional controls'' are used).

The NRC is considering approval of a license termination plan for an entombment based on a site-specific technical evaluation of the entombment's ability to fulfill the requirements of 10 CFR part 20, subpart E. An analysis prepared for the NRC indicates that the most likely way that the entombment engineered barrier might lose its effectiveness may be leakage through the barrier. The ability to ensure that any release would not exceed authorized levels is a function of the design, installation, quality, durability, robustness, etc., of the entombed structure, the environment at hand, and the time needed for the protective function to be performed. Each case must be evaluated on its own merits.

B.1. To what degree should credit be given to engineered barriers for the purposes of dose reduction to meet the license

termination criteria of 10 CFR part 20, Subpart E?

C. Entombment of Greater Than Class C (GTCC) Waste

At the time of permanent cessation of power reactor operations, the reactor vessel's internals contain some long-lived radioactive material that result from neutron activation of these materials near the reactor core. One of these radionuclides is Niobium (Nb-94), which has a half life of about 20,000 years. If reactor internals with GTCC concentrations of Nb-94 had to be disposed of offsite, a special facility for their disposal would be required, since they cannot be disposed of in LLW facilities. Also removal of the GTCC waste from the reactor internals is difficult work and results in exposure to occupational workers. In addition, the Low-Level Radioactive Waste Policy Amendments Act of 1985 provides that GTCC waste resulting from NRC licensed activities may only be disposed of in a facility licensed by the NRC.

C.1. Should material that could be classified as GTCC waste be considered in the entombment approach? Are there circumstances under which residual radioactivity that could be classified as GTCC be allowed to be entombed on site? If so, under what conditions?

D. State Issues

D.1. Power reactor licensees are exclusively regulated by the NRC (under 10 CFR part 50), even in Agreement States. The NRC consults with stakeholders, including Agreement and non-Agreement States, about regulatory actions under consideration that may impact stakeholders. What additional role, if any, should the affected States have in the license termination process based on entombment for power reactors? In addition should an Agreement State be permitted to issue a license for an entombed disposal facility?

D.2. Under 10 CFR part 20, subpart E, the entombment contains material having residual radioactivity and is suitable for license termination if the dose criteria are met. However, under other statutes, such as the LLW Policy Act, the material might be considered to be low level waste. What issues exist for entombment in a State where existing State legislation prohibits LLW disposal?

D.3. Are there other issues for an entombment that impact Low Level Waste Compacts?

D.4. If the entombment disposal facility option does not include GTCC waste and the disposal license is issued by an Agreement State, what compatibility categories,[2] as described in NRC's ''Policy Statement on Adequacy and Compatibility of Agreement State Programs,'' published September 3, 1997 (62 FR 46517), and in NRC's Management Directive 5.9, ''Adequacy and Compatibility of Agreement State Programs,'' should be assigned?

E. Further Information

E.1. Please provide any other considerations or rule changes that the Commission should consider to facilitate license termination based on an entombment approach, while maintaining the requisite protection of the public health and safety?

E.2. The NRC is interested in the likelihood that licensees would pursue entombment to assist it in formulating its decision regarding the entombment options. Please provide your assessment as to the number of licensees likely to pursue entombment as a option. Specifically, it is requested that reactor licensees indicate their potential interest in choosing the entombment option.

The preliminary views expressed in this document may change in light of comments received. If the proposed rule is developed by the Commission, there will be another opportunity for additional public comment in connection with that proposed rule.

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

The authority citation for this document is: 42 U.S.C. 2201; 42 U.S.C. 5841.

Dated at Rockville, Maryland, this 10th day of October, 2001.

[2] Compatibility refers t the extent to which Agreement State radiation control programs are consistent with NRC's program for the regulation of Atomic Energy Act radioactive materials to ensure that an adequate and coherent nationwide effort is collectively established for regulation of such materials.

For the Nuclear Regulatory Commission.

J. Samuel Walker,

Acting Secretary of the Commission.

[FR Doc. 01–25958 Filed 10–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG77

List of Approved Spent Fuel Storage Casks: NAC–UMS Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC–UMS Universal Storage System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 2 to Certificate of Compliance Number 1015. Amendment No. 2 will add miscellaneous spent fuel related components to the approved contents list for the NAC–UMS universal storage system and change the required actions in response to a failure of the cask heat removal system. Several other minor administrative changes will be made. Specific changes will be made to Technical Specifications (TS) to permit the storage of these components and the other requested changes. Changes will be made to Conditions 1b and 6 of the Certificate of Compliance.

DATES: Comments on the proposed rule must be received on or before November 15, 2001.

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

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

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

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC

Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML011990392. 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, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

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

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Procedural Background

This rule is limited to the changes contained in Amendment 2 to Certificate of Compliance Number (CoC No.) 1015 and does not include other aspects of the NAC–UMS cask system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured.

Because NRC considers this action noncontroversial and routine, the proposed rule is being published concurrently as a direct final rule. The direct final rule will become effective on December 31, 2001. However, if the NRC receives significant adverse comments on the direct final rule by November 15, 2001, then the NRC will publish a document to withdraw the direct final rule. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

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

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

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

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

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

(3) The comment causes the NRC staff to make a change to the CoC or TS.

If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

List of Subjects in 10 CFR Part 72

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

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

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

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

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

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

2. In § 72.214, Certificate of Compliance 1015 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1015.

Initial Certificate Effective Date: November 20, 2000.

Amendment Number 1 Effective Date: February 20, 2001.

Amendment Number 2 Effective Date: December 31, 2001.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC–UMS Universal Storage System.

Docket Number: 72–1015.

Certificate Expiration Date: November 20, 2020.

Model Number: NAC–UMS.

* * * * *

Dated at Rockville, Maryland, this 1st day of October, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–25891 Filed 10–15–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

39 CFR Part 20

International Mail Postal Rates; Proposed Changes

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service

is proposing changes in international postal rates for International Priority Airmail, International Surface Air Lift, and publishers' periodical mail. As required under the Postal Reorganization Act, the proposed changes will result in international postal rates that do not apportion the costs of the service so as to impair the overall value of the service to the users, are fair and reasonable, and are not unduly or unreasonably discriminatory or preferential.

DATES: Comments on the proposed changes must be received on or before November 15, 2001.

ADDRESSES: Written comments should be sent to the Manager, International Pricing, International Business, U.S. Postal Services, 1735 N. Lynn Street, Arlington, VA 22209–6020. Copies of all written comments will be available for public inspection between 9 a.m. and 4 p.m., Monday through Friday, in International Business, 2nd Floor, 1735 N. Lynn Street, Arlington, VA 22209–6020.

FOR FURTHER INFORMATION CONTACT: Walter J. Grandjean, (703) 292–3579.

SUPPLEMENTARY INFORMATION: The proposed rates for International Priority Airmail (IPA), International Surface Air Lift (ISAL), and publishers' periodicals, shown in the tables herein, are needed by the Postal Service to cover increases in the cost of providing international mail service, including transportation and delivery charges in the destination country. These services are bulk commercial services that are sensitive to changes in cost.

The rates for publishers' periodicals are currently divided into three rate groups: Canada, Mexico, and all other countries. The Postal Service adopted five rate groups for other letter-post mail on January 7, 2001. The Postal Service is proposing to base publishers' periodical rates on these same five rate groups. This enables the Postal Service to establish rates that more closely align with the cost of providing service to particular country groups having similar costs.

The Postal Service is proposing to change only the rates contained herein. No other rates are changed.

Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites public comment.

The Postal Service proposes to adopt the following rates and to amend the *International Mail Manual* (IMM), which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. The *International Mail Manual* (IMM) will be amended to incorporate the following postage rates:

INTERNATIONAL PRIORITY AIRMAIL RATES

Rate group	Per piece rate	Drop shipment per pound	Full service per pound
1 (Canada)	$0.28	$2.60	$3.60
2 (Mexico)	0.12	4.60	5.60
3	0.25	4.00	5.00
4	0.25	5.50	6.50
5	0.12	4.85	5.85
6	0.12	4.75	5.75
7	0.12	6.25	7.25
8	0.12	7.25	8.25
Worldwide	0.20	7.00	8.00

INTERNATIONAL SURFACE AIR LIFT RATES

Rate group	Per piece rate	Full service per pound		Direct shipment per pound		ISC drop shipment per pound	
		Regular	M-bag	Regular	M-bag	Regular	M-bag
1 (Canada)	$0.28	$3.05	$1.50	$2.55	$1.50	$2.05	$1.40
2 (Mexico)	0.12	4.35	1.60	3.85	1.60	3.35	1.50
3	0.25	3.40	1.75	2.90	1.75	2.40	1.50
4	0.25	3.75	2.50	3.25	2.50	2.75	2.50
5	0.12	4.65	2.25	4.15	2.25	3.65	2.00
6	0.12	4.55	2.25	4.05	2.25	3.55	2.00
7	0.12	4.65	2.50	4.15	2.50	3.65	2.25
8	0.12	6.50	3.25	6.00	3.25	5.50	3.00

Note: M-bags are subject to the minimum rate for 11 pounds.

PUBLISHERS' PERIODICAL RATES

Weight not over (oz.),	Rate group 1 (Canada)	Rate group 2 (Mexico)	Rate group 3	Rate group 4 (Australia, Japan, New Zealand)	Rate group 5
1	$0.45	$0.60	$0.60	$0.60	$0.60
2	0.51	0.75	0.71	0.71	0.74
3	0.57	0.90	0.82	0.82	0.88

PUBLISHERS' PERIODICAL RATES—Continued

Weight not over (oz.),	Rate group 1 (Canada)	Rate group 2 (Mexico)	Rate group 3	Rate group 4 (Australia, Japan, New Zealand)	Rate group 5
4	0.63	1.05	0.93	0.93	1.02
5	0.69	1.20	1.04	1.04	1.16
6	0.75	1.35	1.15	1.15	1.30
7	0.81	1.50	1.26	1.26	1.44
8	0.87	1.65	1.37	1.37	1.58
12	1.15	2.13	1.81	1.81	2.02
16	1.43	2.61	2.25	2.25	2.46
20	1.59	3.09	2.69	2.69	2.90
24	1.75	3.57	3.13	3.13	3.34
28	1.91	4.05	3.57	3.57	3.78
32	2.07	4.53	4.01	4.01	4.22
36	3.87	5.01	4.45	4.45	4.66
40	3.99	5.49	4.89	4.89	5.10
44	4.11	5.97	5.33	5.33	5.54
48	4.23	6.45	5.77	5.77	5.98
52	4.39	6.93	6.21	6.21	6.42
56	4.55	7.41	6.65	6.65	6.86
60	4.71	7.89	7.09	7.09	7.30
64	4.87	8.37	7.53	7.53	7.74

$0.25 per pound discount for drop shipments tendered at the New Jersey International and Bulk Mail Center.

COUNTRY RATE GROUPS

Country	Rate groups		
	IPA	ISAL	Publishers' periodicals
Afghanistan	8	.....	5
Albania	5	5	5
Algeria	8	8	5
Andorra	3	.....	3
Angola	8	8	5
Anguilla	6	.....	5
Antigua and Barbuda	6	.....	5
Argentina	6	6	5
Armenia	8	.....	5
Aruba	6	6	5
Ascension	5	.....	5
Australia	4	4	4
Austria	3	3	5
Azerbaijan	8	.....	5
Bahamas	6	.....	5
Bahrain	8	8	5
Bangladesh	8	8	5
Barbados	6	.....	5
Belarus	5	.....	5
Belgium	3	3	3
Belize	6	6	5
Benin	8	8	5
Bermuda	6	.....	5
Bhutan	8	.....	5
Bolivia	6	6	5
Bosnia-Herzegovina	5	.....	5
Botswana	8	.....	5
Brazil	6	6	5
British Virgin Islands	6	.....	5
Brunei Darussalam	7	.....	5
Bulgaria	5	5	5
Burkina Faso	8	8	5
Burma (Myanmar)	8	.....	5
Burundi	8	.....	5
Cambodia	7	.....	5
Cameroon	8	8	5
Canada	1	1	1
Cape Verde	8	.....	5
Cayman	6	.....	5

COUNTRY RATE GROUPS—Continued

Country	Rate groups		
	IPA	ISAL	Publishers' periodicals
Central African Republic	8	8	5
Chad	8	.....	5
Chile	6	6	5
China	7	7	5
Colombia	6	6	5
Comoros Islands	8	.....	5
Congo (Brazzaville), Republic of the	8	.....	5
Congo (Kinshasa), Democratic Republic of the	8	8	5
Costa Rica	6	6	5
Cŏd'Ivoire (Ivory Coast)	8	8	5
Croatia	5	.....	5
Cuba	6	6	5
Cyprus	8	.....	5
Czech Republic	5	5	5
Denmark	3	3	3
Djibouti	8	.....	5
Dominica	6	.....	5
Dominican Republic	6	6	5
Ecuador	6	6	5
Egypt	8	8	5
El Salvador	6	6	5
Equatorial Guinea	8	.....	5
Eritrea	8	.....	5
Estonia	5	.....	5
Ethiopia	8	8	5
Falkland Islands	6	.....	5
Faroe Islands	5	.....	3
Fiji	7	7	5
Finland	3	3	3
France (Includes Corsica & Monaco)	3	3	3
French Guiana	6	6	5
French Polynesia (Includes Tahiti)	7	.....	5
Gabon	8	8	5
Gambia	8	.....	5
Georgia, Republic of	8	.....	5
Germany	3	3	3
Ghana	8	8	5
Gibraltar	3	.....	3
Great Britain and Northern Ireland	3	3	3
Greece	3	3	3
Greenland	3	.....	3
Grenada	6	.....	5
Guadeloupe	6	.....	5
Guatemala	6	6	5
Guinea	8	.....	5
Guinea-Bissau	8	.....	5
Guyana	6	6	5
Haiti	6	6	5
Honduras	6	6	5
Hong Kong	7	7	5
Hungary	5	5	5
Iceland	3	3	3
India	8	8	5
Indonesia (Includes East Timor)	7	7	5
Iran	8	8	5
Iraq	8	.....	5
Ireland	3	3	3
Israel	3	3	3
Italy	3	3	3
Jamaica	6	6	5
Japan	4	4	4
Jordan	8	8	5
Kazakhstan	8	.....	5
Kenya	8	8	5
Kiribati	7	.....	5
Korea, Dem. People's Rep. of (North)	7	.....	5
Korea, Republic of (South)	7	7	5
Kuwait	8	8	5

COUNTRY RATE GROUPS—Continued

Country	Rate groups		
	IPA	ISAL	Publishers' periodicals
Kyrgyzstan	5		5
Laos	7		5
Latvia	5		5
Lebanon	8	8	5
Lesotho	8		5
Liberia	8		5
Libya	8		5
Liechtenstein	3	3	3
Lithuania	5		5
Luxembourg	3	3	3
Macao	5		5
Macedonia, Republic of	5		5
Madagascar	8	8	5
Malawi	8		5
Malaysia	7	7	5
Maldives	8		5
Mali	8	8	5
Malta	8		5
Martinique	6		5
Mauritania	8	8	5
Mauritius	8	8	5
Mexico	2	2	2
Moldova	8		5
Mongolia	7		5
Montserrat	6		5
Morocco	8	8	5
Mozambique	8	8	5
Namibia	8		5
Nauru	7		5
Nepal	7		5
Netherlands	3	3	3
Netherlands Antilles	6	6	5
New Caledonia	7		5
New Zealand	4	4	4
Nicaragua	6	6	5
Niger	8	8	5
Nigeria	8	8	5
Norway	3	3	3
Oman	8	8	5
Pakistan	8	8	5
Panama	6	6	5
Papua New Guinea	7	7	5
Paraguay	6	6	5
Peru	6	6	5
Philippines	7	7	5
Pitcairn Island	7		5
Poland	5	5	5
Portugal (Includes Azores & Madeira Islands)	3	3	3
Qatar	8	8	5
Reunion	8	8	5
Romania	5	5	5
Russia	5	5	5
Rwanda	8		5
Saint Christopher (St. Kitts) and Nevis	6		5
Saint Helena	8		5
Saint Lucia	6		5
Saint Pierre & Miquelon	6		5
Saint Vincent and the Grenadines	6		5
San Marino	3		3
Sao Tome and Principe	5		5
Saudi Arabia	8	8	5
Senegal	8	8	5
Serbia-Montenegro (Yugoslavia)	5		5
Seychelles	8		5
Sierra Leone	8		5
Singapore	7	7	5
Slovak Republic (Slovakia)	5		5
Slovenia	5		5

COUNTRY RATE GROUPS—Continued

Country	Rate groups		
	IPA	ISAL	Publishers' periodicals
Solomon Islands	7	.....	5
Somalia	8	.....	5
South Africa	8	8	5
Spain (Includes Canary Islands)	3	3	3
Sri Lanka	8	8	5
Sudan	8	8	5
Suriname	6	6	5
Swaziland	8	.....	5
Sweden	3	3	3
Switzerland	3	3	3
Syria	8	8	5
Taiwan	7	7	5
Tajikistan	8	.....	5
Tanzania	8	8	5
Thailand	7	7	5
Togo	8	8	5
Tonga	7	.....	5
Trinidad and Tobago	6	6	5
Tristan da Cunha	8	.....	5
Tunisia	8	8	5
Turkey	5	5	5
Turkmenistan	5	.....	5
Turks and Caicos Islands	6	.....	5
Tuvalu	7	.....	5
Uganda	8	8	5
Ukraine	8	.....	5
United Arab Emirates	8	8	5
Uruguay	6	6	5
Uzbekistan	8	.....	5
Vanuatu	7	.....	5
Vatican City	3	.....	3
Venezuela	6	6	5
Vietnam	7	.....	5
Wallis and Futuna Islands	7	.....	5
Western Samoa	7	.....	5
Yemen	8	8	5
Zambia	8	8	5
Zimbabwe	8	8	5

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–25987 Filed 10–15–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. 232, FRL–7084–2]

Approval and Promulgation of Implementation Plans; New York and New Jersey Ozone State Implementation Plans; New York Carbon Monoxide Attainment Demonstration and Designation for Air Quality Planning; Extension and reopening of Comment Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules; extension and reopening of comment periods.

SUMMARY: Due to the tragic events of September 11, 2001 and the resulting temporary closure of the Region 2 office of the Environmental Protection Agency (EPA) in New York City and the disruption of mail delivery and telephone service, the EPA is extending and reopening the comment period for a number of proposed rules and requesting those who previously commented to resubmit them in the event they were lost in the mail.

DATES: Comments must be received on or before November 15, 2001.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007–1866.

Copies of the state submittals are available for inspection at the Region 2 office in New York City. Those interested in inspecting these submittals must arrange an appointment in advance by calling (212) 637–4249. Alternatively, appointments may be arranged via e-mail by sending a message to Paul Truchan at *truchan.paul@epa.gov* or Kirk Wieber at *wieber.kirk@epa.gov.* The office address is 290 Broadway, Air Programs Branch, 25th Floor, New York, New York 10007–1866.

Copies of the state submittals are also available for inspection at the respective state offices: New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd floor, Albany, New York 12233.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air

Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Paul Truchan, Kirk Wieber or Henry Feingersh, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION: The EPA is extending and reopening the comment period for the following proposals:

—Approval and Promulgation of Implementation Plans, New York Reasonable Further Progress Plans and Transportation Conformity Budgets for 2002, 2005 and 2007, dated August 13, 2001 (66 FR 42479).

—Approval and Promulgation of Implementation Plans, New York's Reasonably Available Control Measure Analysis, dated September 11, 2001 (66 FR 47139).

—Approval and Promulgation of Implementation Plans, New Jersey Motor Vehicle Inspection and Maintenance Program, dated September 11, 2001 (66 FR 47132).

—Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New York, dated August 30, 2001 (66 FR 45806)

—Approval and Promulgation of Implementation Plans; New Jersey Reasonable Further Progress Plans and Transportation Conformity Budgets for 2002, 2005 and 2007, dated September 12, 2001 (66 FR 47419).

—Approval and Promulgation of Implementation Plans; New Jersey Reasonably Available Control Measure Analysis and Additional Ozone Control Measures, dated September 24, 2001 (66 FR 48847).

EPA is extending and reopening the comment period on these proposals until November 15, 2001. Normally the comment period would have ended 30 days from their date of publication. This will provide an opportunity to view the SIP dockets, contact EPA or submit written comments.

EPA is also requesting anyone who has already mailed written comments on the above proposals, to resubmit those comments in order for EPA to be sure that they are received and addressed as part of the rulemaking.

Dated: October 9, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–25961 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket# VT–020–1223b; FRL–7077–5]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Vermont; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the sections 111(d)/129 negative declaration submitted by the Vermont Agency of Natural Resources (ANR) on June 5, 2001. This negative declaration adequately certifies that there are no small municipal waste combustors (small MWCs) located within the boundaries of the State of Vermont.

DATES: EPA must receive comments in writing by November 15, 2001.

ADDRESSES: You should address your written comments to: Mr. Steven Rapp, Chief, Air Permits Program Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

Copies of documents relating to this proposed rule are available for public inspection during normal business hours at the following location. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Air Permits Program Unit, Office of Ecosystem Protection, Suite 1100 (CAP), One Congress Street, Boston, Massachusetts 02114–2023.

FOR FURTHER INFORMATION CONTACT: John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, (617) 918–1659, or by e-mail at *courcier.john@epa.gov.* While the public may forward questions to EPA via e-mail, it must submit comments on this proposed rule according to the procedures outlined above.

SUPPLEMENTARY INFORMATION: Under section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, subpart B which require states to submit control plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

The Vermont ANR submitted the negative declaration to satisfy the requirements of 40 CFR part 60, subpart B. In the Final Rules section of this **Federal Register**, EPA is approving the Vermont negative declaration as a direct final rule without a prior proposal. EPA is doing this because the Agency views this action as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA does not receive any significant, material, and adverse comments to this action, then the approval will become final without further proceedings. If EPA receives adverse comments, the direct final rule will be withdrawn and EPA will address all public comments received in a subsequent final rule based on this proposed rule. EPA will not begin a second comment period.

Dated: September 26, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 01–25964 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[DC–T5–2001–01b; FRL–7085–9]

Clean Air Act Full Approval of Operating Permit Program; District of Columbia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to fully approve the operating permit program of the District of Columbia. The District of Columbia's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted final interim approval of the District of Columbia's operating permit program on August 7, 1995. The District of Columbia amended its operating permit program to address deficiencies identified in the interim approval action and this action proposes to approve those amendments. In the Final Rules section of this **Federal Register**, EPA is approving the State's operating permit program as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse

comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by November 15, 2001.

ADDRESSES: Written comments should be mailed to Ms. Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Paresh R. Pandya, (215) 814–2167, or by e-mail at *pandya.perry@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: October 10, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–26096 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[OK–FRL–7081–9]

Clean Air Act Full Approval of Operating Permits Program; Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval.

SUMMARY: The EPA proposes to fully approve the Operating Permit Program of the State of Oklahoma. Oklahoma's Operating Permit Program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted interim approval to Oklahoma's Operating Permit Program on February 5, 1996 (61 FR 4220). Oklahoma revised its program to satisfy the conditions of the interim approval and this action proposes approval of those revisions. Other program changes made by Oklahoma are also being proposed for approval as part of this action.

DATES: The EPA must receive your written comments on this proposed action no later than November 15, 2001.

ADDRESSES: Written comments on this action should be addressed to Ms. Jole Luehrs, Chief, Air Permits Section (6PD–R) at the EPA Region 6 Office listed below. Copies of the State's submittal and other supporting documentation relevant to this action are available for inspection during normal business hours at the U.S. EPA, Region 6, Air Permitting Section (6PD–R), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, and the Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73102. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

FOR FURTHER INFORMATION CONTACT: Mary Stanton, Regional Title V Air Operating Permits Projects Manager, Air Permitting Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, at (214) 665–8377.

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

What is the Operating Permit Program?
What is being addressed in this document?
What are the program changes that EPA is proposing to approve?
What is involved in this proposed action?

What Is the Operating Permit Program?

Title V of the CAA Amendments of 1990 required all States to develop Operating Permit Programs that met certain Federal criteria. In implementing the Operating Permit Programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the Operating Permit Program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility into a single document, the source, the public, and the regulators can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution, as defined at 40 CFR 70.2, and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); 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, major sources include those with the potential of emitting 50 tons per year or more of VOCs.

What Is Being Addressed in This Document?

Where an Operating Permit Program substantially, but not fully met the criteria outlined in the implementing regulations codified at 40 CFR part 70, EPA granted interim approval contingent on the State revising its program to correct the deficiencies. Because Oklahoma's Operating Permit Program substantially, but not fully met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on February 5, 1996 (61 FR 4220). The interim approval notice stipulated seven conditions that had to be met in order for Oklahoma's program to receive full approval. Oklahoma submitted revisions to its interim approved Operating Permit Program on July 27, 1998. This document describes the changes that

have been made in Oklahoma's Operating Permit Program.

What Are the Program Changes That EPA Is Proposing To Approve?

The interim approval notice stipulated seven conditions that had to be met in order for Oklahoma's program to receive full approval. These seven conditions are as follows: (1) Revise Subchapter 8 of the Oklahoma Administrative Code (OAC) to incorporate the new transition schedule included in the Governor's request for source category-limited interim approval; (2) revise definition of ''major source''; (3) revise definition of ''insignificant activities''; (4) revise permit content provisions; (5) revise judicial review provisions; (6) revise administrative amendments provisions; and (7) submit State Implementation Plan (SIP) revision for Subchapter 7 of the OAC consistent with Subchapter 8 of the OAC and 40 CFR part 70. 60 FR at 4223. The State's July 27, 1998, submittal to EPA addressed these seven conditions. These items are discussed below.

As part of its process for correcting the deficiencies, the State also revised its Operating Permit Program regulations to correct some typographical errors and to make some editorial changes including the renumbering of the regulations. The renumbering accounts for the difference in citations between the old regulations and the revised regulations. Oklahoma also moved some new source review (NSR) provisions from Subchapter 7 to Subchapter 8. In addition, Oklahoma changed some regulations EPA previously approved. Some of these changes did not comply with part 70. These items are also discussed below.

The first condition for full approval of Oklahoma's Operating Permit Program was the requirement that the State revise Subchapter 8 (OAC 252:100–8–7(a)(5)(A) and OAC 252:100–8–5(b)(2)) to reflect a transition schedule approval period for permitting certain sources during the interim period and then permitting all other sources during the first three years of full approval. 60 FR 13088, 13091 (March 10, 1995); 61 FR at 4223. In response, the State deleted provisions of OAC 252:100–7(a)(5)(A) and OAC 252:100–8–5(b)(2) and revised OAC 252:100–8–4(b)(4) to reflect a transition schedule providing for permitting certain sources during the two year interim approval period and the permitting of all other sources during the first three years of full approval. This deficiency has been corrected.

The second condition for full approval was that the language at OAC 252:100–8–2 must be revised to clarify that for criteria pollutants, units cannot be considered separately at a facility when determining whether a source is major. 61 FR at 4223. Subsection D of OAC 252:100–8–2's definition of ''major source'' did not allow aggregation of emissions for certain units at oil or gas exploration and pipeline compressor stations, contrary to EPA's definition of ''major source'' at 40 CFR 70.2. *See* 60 FR at 13091. In response, Oklahoma revised the definition of major source at OAC 252:100–8–2 to delete subsection D, which did not allow aggregation of emissions for certain units at oil or gas exploration and pipeline compressor stations. Therefore, this deficiency has been corrected.

The third condition for full approval required a revision of the Insignificant Activities Provisions at OAC 252:100–8–3(e) to reflect an insignificant emissions level of one pound per hour of operation, based on potential to emit, or some other level as the State may demonstrate is insignificant with respect to applicable requirements. 61 FR at 4223. In response, the State deleted the insignificant activities definition in OAC 252:100–8–3(e) and promulgated a revised insignificant activities definition in OAC 252:100–8–2. This definition defined insignificant activities as those on a list approved by the Administrator and contained in Appendix I of Subchapter 8, or whose actual calendar year emissions do not exceed certain limits.[1] The definition also excludes any activity to which a Federal or State applicable requirement applies. The emission levels in the revised definition are consistent with the levels in other approved State Operating Permit Programs (*i.e.,* Arkansas and Louisiana). However, in this action, EPA is not approving the list of insignificant activities contained in Appendix I. Thus, insignificant activities are limited to the emission limits in OAC 252:100–8–2. Therefore, this deficiency has been corrected.

The fourth condition for full approval required Oklahoma to revise Subchapter 8 Permit Content Language at OAC 252:100–8–6(a) to delete the phrase, ''to the extent practicable.'' 61 FR at 4223. Permits issued by the state must include all applicable requirements. 60 FR at 13092. The State revised 252:100–8–6(a) to delete the phrase ''to the extent practicable''. Therefore, this deficiency has been corrected.

The fifth condition for full approval required Oklahoma to revise its Subchapter 8 Judicial Review Provisions. The EPA required the State to revise the language at OAC 252:100–8–7(j) to provide judicial review for comments made during public review and provide judicial review for all final permit actions. 60 FR at 4223. The regulations only provided standing for those who submitted ''written'' comments during public review, not those who made oral comments (*e.g.,* at a public hearing). *Id.* at 4222. Oklahoma moved the Judicial Review provisions of OAC 252:100–8–7(j) to OAC 252:100–8–7.5 and deleted the word ''written'' from this regulation. The current language provides judicial review for all comments made during the public comment period and for all final permit actions. Thus, this deficiency has also been corrected.

The sixth condition for full approval required the State of Oklahoma to revise its Subchapter 8 Administrative Amendment Provisions. The EPA required the State to revise the language at OAC 252:100–8–7(d) to delete the phrase ''or less'' from subpart (1)(c),[2] and to define the term ''Enhanced NSR procedures'' consistent with part 70. 60 FR at 4223. The EPA's rules at 40 CFR 70.7(d)(1)(iii) allow administrative amendments to be used to require more frequent monitoring at a facility, but not to make the monitoring requirements less stringent. The State's regulation did not define the term ''Enhanced NSR procedures''. Furthermore, the NSR procedures in Subchapter 7 had not been submitted to EPA as a SIP revision. In response, the State moved the Administrative Amendment provisions from OAC 252:100–8–7(d) to OAC 252:100–8–7.2(a) and deleted the phrase ''or less'' from the regulatory language in 252:100–8–7.2(a)(1)(C)(E).

The EPA also required the State to amend these regulations to define the term ''Enhanced New Source Review (NSR) procedures'' consistent with part 70. The regulations did not define or specify the NSR procedures mentioned and therefore required clarification. 61 FR at 4223; 60 FR at 13091–92. 40 CFR 70.7(d)(1)(v) allows the incorporation ''into the part 70 permit the requirements from preconstruction review permits authorized under an

[1] These limits include 5 tons per year (tpy) of any one criteria pollutant, 2 tpy for any one hazardous air pollutant (HAP) or 5 tpy for an aggregate of two or more HAPs, or 20% of any threshold less than 10 tpy for any single HAP that EPA may establish by rule, or 0.6 tpy for any one category A substance, 1.2 tpy for any one category B substance, or 6 tpy for any one category C substance defined in OAC 252:100–41–40.

[2] The FR notice (60 FR at 4223) incorrectly identified this citation as OAC 252:100–8–7(d)(1)(d).

EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of [40 CFR 70.7 and 70.8] that would be applicable to the change if it were subject to review as a permit modification and compliance requirements substantially equivalent to those contained in § 70.6.'' Rather than define the term ''enhanced NSR procedures'', the sentence containing the term was deleted from OAC 252:100–8–7.2(a)(1)(E) (formerly OAC 252:100–8–7(d)(1)(E)). This change did not correct the sixth condition for full approval. However, as discussed below, the state has agreed to other steps to address this concern.

The seventh, and final, condition for full approval was the submission of Subchapter 7 as a SIP Revision. EPA required the State of Oklahoma to revise Subchapter 7 to define enhanced NSR procedures consistent with Subchapter 8 and 40 CFR part 70. The EPA required that the revised regulation be submitted as a SIP revision within 18 months after interim approval was granted to ensure consistency between the SIP and Title V of the CAA for major sources. 61 FR at 4223. As stated above, the term ''enhanced NSR procedures'' was deleted from the regulation. The first sentence of OAC 252:100–8–7.2(a)(1)(E) (formerly OAC 252:100–8–7(d)(1)(E)) was changed from ''[i]ncorporates into the permit the requirements from preconstruction review permits issued by the DEQ under OAC 252:100–7'' to ''[i]ncorporates into the permit the requirements from preconstruction permits issued by the ODEQ under this Part.'' However, the State failed to show that program meets procedural requirements substantially equivalent to the requirements of [40 CFR 70.7 and 70.8] that would be applicable to the change if it were subject to review as a permit modification and compliance requirements substantially equivalent to those contained in § 70.6. The State also failed to submit Subchapter 7 to EPA as a SIP revision. Therefore, Oklahoma failed to correct the seventh condition for full approval.

On June 12, 2001, EPA notified Oklahoma that it had four options to address the outstanding issues with the sixth and seventh conditions:

1. EPA could approve the regulation without any additional changes provided Oklahoma includes provisions in the permit that meet the requirements of 40 CFR 70.7 and 70.8 (e.g., affected state review, EPA review, EPA petition);

2. EPA could postpone full approval of Oklahoma's part 70 program, until the state submits and EPA approves Subchapter 8, as a revision to their State Implementation Plan. This is provided that Subchapter 8 contains NSR provisions that address major sources and minor modifications to major sources, and that Subchapter 8 meets procedural requirements substantially equivalent to 40 CFR 70.7 and 70.8 (e.g., affected state review, EPA review, EPA petition);

3. Oklahoma can amend the regulation so that the language tracks the language in 40 CFR 70.7(1)(v); or

4. Oklahoma can amend the regulation to delete the provision.

By correspondence dated September 4, 2001, and September 19, 2001, Oklahoma agreed to implement Option 1. EPA and Oklahoma have agreed on the following language that Oklahoma will include in its permits to implement Option 1.

1. The construction permit goes out for a 30 day public notice and comment using the procedures set forth in 40 Code of Federal Regulations (CFR) 70.7(h)(1). This public notice shall include notice to the public that this permit is subject to EPA review, EPA objection, and petition to EPA, as provided by 40 CFR 70.8; that the requirements of the construction permit will be incorporated into a Title V permit through the administrative amendment process; that the public will not receive another opportunity to provide comments when the requirements are incorporated into the Title V permit, and that EPA review, EPA objection, and petitions to EPA will not be available to the public when requirements from the preconstruction review permit are incorporated into the Title V permit.

2. A copy of the construction permit application is sent to EPA, as provided by 40 CFR 70.8(a)(1).

3. A copy of the draft construction permit is sent to any affected State, as provided by 40 CFR 70.8(b).

4. A copy of the proposed construction permit is sent to EPA for a 45 day review period as provided by 40 CFR 70.8(a) and (c).

5. The DEQ complies with 40 CFR 70.8(c) upon the receipt within the 45 day comment period of any EPA objection to the construction permit. The DEQ shall not issue the permit until EPA's objections are resolved to the satisfaction of EPA.

6. The DEQ complies with 40 CFR 70.8(d).

7. A copy of the final construction permit is sent to EPA as provided by 40 CFR 70.8(a).

8. The DEQ shall not issue the proposed construction permit until any affected State and EPA have had an opportunity to review the proposed permit, as provided by these permit conditions.

9. Any requirements of the construction permit may be reopened for cause after incorporation into the Title V permit by the administrative amendment process, by DEQ as provided in OAC 252:100–8–7.3(a), (b), and (c), and by EPA, as provided by 40 CFR 70.7(f) and (g).

To the extent that these conditions are not followed, the Title V permit must go through the Title V review process.

Therefore, Oklahoma has corrected the sixth and seventh conditions for full approval.

Oklahoma made additional program changes after the interim approval became effective on March 6, 1996. The State revised its Operating Permits Program regulations to correct some typographical errors and to make some editorial changes including the renumbering of the regulations. Oklahoma also changed some regulations EPA previously approved. These regulations are discussed below. Oklahoma also moved some NSR provisions into Subchapter 8, and amended OAC 252:002.Subchapter 15, ''Uniform Permitting Procedures.'' However, EPA is only proposing to approve Subchapter 8—Permits for Part 70 Sources, as it pertains to the Title V operating permits program. EPA is also proposing to approve OAC 252:2–15–41—Air Quality Applications—Tier II. It is not proposing to approve any provision of Subchapter 8 which relates to construction permits, or any other provision contained in the submittal which does not pertain to Title V. It is not proposing to approve Appendix J—Trivial Activities List, or OAC 252:2–15–41—Air Quality Applications—Tier I. It is also not proposing to approve any regulation as part of the SIP.

Some of the changes Oklahoma made did not meet the requirements of part 70. These deficiencies involved public participation, Tier I air quality applications, definitions, permit content, administrative permit amendments, minor permit modification procedures, and permit review by EPA and affected States. These deficiencies were identified in a June 12, 2001 letter to Oklahoma.[3] All but one of these deficiencies were minor. One major deficiency was discovered, OAC 252:100–8–8(i)(5)(B). This provision allowed Oklahoma to disregard EPA's objection to a permit if it determined that it was inconsistent with state or federal law or regulations. This provision is prohibited by section 505(b)(3) of the CAA and 40 CFR

[4] These deficiencies will be addressed in a Notice of Deficiency published in the **Federal Register** at a later date.

70.8(c). However, EPA has never objected to a CAA Title V permit in Oklahoma.[4]

Oklahoma has proposed revisions to OAC 252:100–8–8 which correct this deficiency. The Oklahoma Air Quality Council and the Oklahoma Air Quality Board have both approved the proposed revisions. Before this revision becomes effective its must be approved by the Governor. Oklahoma also needs to submit the revisions to EPA for approval. If EPA does not receive the revisions in a time frame that would allow full approval to become effective by December 1, 2001, then EPA would still grant Oklahoma full approval of its program (assuming that no relevant comments are received that would cause us not to approve the program). However, EPA would include the EPA Review Deficiency along with the other minor deficiencies identified in the June 12, 2001, letter in a Notice of Deficiency published in the **Federal Register**. Since this deficiency is not identified as an interim approval deficiency, it does not need to be corrected prior to the granting of full approval. Also, Oklahoma has agreed in writing not to issue a permit over EPA's objection.

Therefore, based on the foregoing, EPA believes that since Oklahoma has corrected all of its interim approval deficiencies, and the new deficiencies are either minor or have been adequately addressed in the interim, these deficiencies are not a barrier to proposing full approval of Oklahoma's Operating Permits Program. However, a notice of deficiency will be issued to Oklahoma in the near future requiring Oklahoma to take action to correct these deficiencies.

What Is Involved in This Proposed Action?

The State of Oklahoma has fulfilled the conditions of the interim approval granted on February 5, 1996 (61 FR 4220), so EPA is proposing full approval of the State's operating permit program. EPA is also proposing approval of certain other program changes made by the State since interim approval was granted.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 **Note**) do not apply.

List of Subjects in 40 CFR Part 70

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

Dated: October 2, 2001.

Lawrence E. Starfield,

Acting Deputy Regional Administrator, Region 6.

[FR Doc. 01–25740 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

[4] These deficiencies will be addressed in a Notice of Deficiency published in the **Federal Register** at a later date.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2250, MM Docket No. 01–262, RM–10231]

Radio Broadcasting Services; La Pryor, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 278A at La Pryor, Texas, as that community's first local FM service. The coordinates for Channel 278A at La Pryor are 28–58–09 and 99–56–05. There is a site restriction 8.9 kilometers (5.6 miles) west of the community. Since La Pryor is located within 320 kilometers of the U.S.-Mexican border, concurrence of the Mexican Government will be requested for the allotment at La Pryor.

DATES: Comments must be filed on or before November 19, 2001, and reply comments on or before December 4, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas 75214.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–262, adopted September 19, 2001, and released September 28, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com.

Provisions of the Regulatory Flexibility Act of l980 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* contact.

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 Texas, is amended by adding La Pryor, Channel 278A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–25915 Filed 10–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2251; MM Docket No. 01–263; RM–10280; MM Docket No. 01–264; RM–10281; MM Docket No. 01–265; RM–10282; MM Docket No. 01–266; RM–10283; MM Docket No. 01–267; RM–10289]

Radio Broadcasting Services; Junction, TX; Chino Valley, AZ; Arkadelphia, AR; Aspermont, TX; Cotulla, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a five petitions for rulemaking proposing new channels. A petition filed by Maurice Salsa, proposing the allotment of Channel 292A at Juntion,Texas as that community's second commercial FM transmission service. Channel 292A can be allotted to Junction without a site restriction at coordinates 30–29–21NL and 99–46–18 WL. Mexican concurrence will be requested for this allotment. A petition filed by Charles Crawford proposing the allotment of Channel 223A at Chino Valley, Arizona, as the community's second local service. Channel 223A can be allotted at Chino Valley at a site 6 kilometers (3.7 miles) west of the community at coordinates 34–46–10 NL and 112–31–03 WL. A petition filed by Charles Crawford proposing the allotment of Channel 228A at Arkadelphia, Arkansas, as the community's second local FM service. Channel 228A can be allotted at Arkadelphia at a site 11.5 kilometers (7.2 miles) west of the community at coordinates 34–07–1–NL and 93–10–43 WL. A petition filed by Jeraldine Anderson proposing the allotment of Channel 226C2 at Aspermont, Texas, as the community's first local aural transmission service. Channel 226C2 can be allotted at Aspermont at a site 6.7 kilometers (4.1 miles) north of the community at coordinates 33–11–27 NL and 100–14–50 WL. A petition filed by Jeraldine Anderson proposing the allotment of Channel 289A at Cotulla, Texas, as the community's second local service. Channel 289A can be allotted at Cotulla at a site 5.0 kilometers (3.1 miles) southwest of the community. Mexican concurrence will be requested for this allotment.

DATES: Comments must be filed on or before November 19, 2001, and reply comments on or before December 4, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, as follows: Maurice Salsa, 5616 Evergreen Valley Drive, Kingwood, TX 77345 (petitioner for Junction, TX); Charles Crawford, 4553 Bordeaux Ave., Dallas, TX 75205 (petitioner for Chino Valley, AZ and Arkadelphia, AR); Jeraldine Anderson, 1702 Cypress Drive, Irving, TX 75061 (petitioner for Aspermont, TX and Cotulla, TX) .

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket Nos. 01–263, 01–264, 01–265, No. 01–266, and 01–267, adopted September 19, 2001, and released September 28, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

Provisions of the Regulatory Flexibility Act of l980 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 Channel 228A at Arkadelphia.

3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Channel 223A at Chino Valley.

4. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 292A at Junction, Channel 289A at Cotulla, and Aspermont, Channel 226C2.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–25916 Filed 10–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 01–286]

Noncommercial Educational Television

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission seeks comment on whether modification of the license of WQEX(TV), to specify operation on nonreserved Channel 16, will promote the public interest, convenience and necessity, and also, whether the channel, if dereserved, should be subject to competing applications.

DATES: Comments December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein (202) 418–1600, Video Services Division, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making (''NPRM'') entitled, *Amendment of the Television Table of Allotments to Delete Noncommercial Reservation of Channel *16, 482–488 MHz, Pittsburgh, Pennsylvania*, FCC No. 01–286, released October 11, 2001. The full text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Room, Room CY–A257, Portals II, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

Synopsis of NPRM

On January 9, 2001 WQED Pittsburgh (QED), licensee of noncommercial educational television stations WQED(TV), Channel *13 and WQEX(TV), Channel *16, Pittsburgh, Pennsylvania, filed a ''Petition to Delete Noncommercial Reservation.'' In its petition, QED requests that the Commission amend §§ 73.606 and 73.622 of the Commission's rules, *see* 47 CFR 73.606 (NTSC channels) and 73.622 (DTV channels), to remove the noncommercial reservation of Channel *16 and permit QED to sell WQEX(TV) as a commercial television station without opening the channel to competing applications, and use the net proceeds to further WQED(TV)'s noncommercial broadcast operation. In the Memorandum Opinion and Order portion of the document, the Commission denies QED's request to dereserve Channel *16. However, in the NPRM section of the document, the Commission commences a rule making proceeding to determine whether modification of the license of WQEX(TV), to specify operation on nonreserved Channel 16, will promote the public interest, convenience and necessity, and also, whether the channel, if dereserved, should be subject to competing applications.

List of Subjects in 47 CFR Part 73

Education, Television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–25997 Filed 10–15–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[I.D. 092501A]

Availability of a Draft Environmental Assessment/Finding of No Significant Impact and Receipt of an Application for an Incidental Take Permit (1347)

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

ACTION: Notice of availability.

SUMMARY: NMFS has received an application for an incidental take permit (Permit) from the Washington Department of Fish and Wildlife (WDFW) pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, WDFW has also prepared a conservation plan (Plan) designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the incidental take of ESA-listed adult and juvenile salmonids associated with otherwise lawful artificial propagation programs for non-listed species in the upper Columbia River and its tributaries in the state of Washington. The duration of the proposed Permit and Plan is 5 years. The Permit application includes the proposed Plan, and three Hatchery and Genetic Management Plans (HGMPs) submitted by WDFW. NMFS also announces the availability of a draft Environmental Assessment (EA) for the Permit application. NMFS is furnishing this notification in order to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record and will be available for review pursuant to the ESA.

DATES: Written comments from interested parties on the Permit application, Plan, HGMPs, and draft EA must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight time on November 15, 2001.

ADDRESSES: Written comments on the application, Plan, HGMPs, or draft EA should be sent to Tim Tynan, Sustainable Fisheries Division, F/NWO3, 510 Desmond Drive, Suite 103, Olympia, WA 98503. Comments may also be sent via fax to 360–753–9517. Comments will not be accepted if submitted via e-mail or the Internet. Requests for copies of the Permit application, Plan, HGMPs, and draft EA should be directed to the Sustainable Fisheries Division, F/NWO3, 510 Desmond Drive, Suite 103, Olympia, WA 98503. The documents are also available on the Internet at *http://www.nwr.noaa.gov/*. Comments received will also be available for public inspection, by appointment, during normal business hours by calling 360–753–9579.

FOR FURTHER INFORMATION CONTACT: Tim Tynan, Olympia, WA (ph: 360/753–9579, fax: 360/753–9507, e-mail: *Tim.Tynan@noaa.gov*).

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in This Notice

The following species and evolutionarily significant units are included in the Plan, HGMPs, and Permit application:

Chinook salmon (*Oncorhynchus tshawytscha*): endangered, naturally produced and artificially propagated, upper Columbia River spring-run.

Steelhead (*O. mykiss*): endangered, naturally produced and artificially propagated Upper Columbia River (UCR).

Background

On December 15, 1999, WDFW submitted an application to NMFS for an ESA section 10 (a)(1)(B) permit for the incidental take of ESA-listed anadromous fish species associated with operation of hatchery programs producing unlisted salmon for release into the Columbia River and its tributaries from Priest Rapids Dam upstream to the Okanogan River Basin from 2001 to 2005. Incidental take would include endangered spring chinook salmon and steelhead in the UCR Evolutionarily Significant Units (ESUs). The proposed unlisted salmon hatchery programs produce sockeye, summer-run chinook, and fall-run chinook salmon of native stock to supplement local naturally spawning salmon populations. The hatchery programs function to mitigate for the loss of adult salmon resulting from the construction and operation of hydropower projects in the UCR region. In addition to augmenting the number of naturally spawning salmon, the proposed implementation of these hatchery programs will produce surplus fish for harvest in Native American ceremonial and subsistence and commercial fisheries, and non-Indian recreational and commercial fisheries, in the Columbia River Basin. These fisheries provide cultural benefits to Columbia River Basin treaty tribes and economic opportunity for local communities through the sale of fish, licences, equipment, and the conduct of other financial transactions related to the fisheries.

Conservation Plan

The Conservation Plan and the HGMPs prepared by WDFW describe measures designed to monitor, minimize, and mitigate the incidental takes of ESA-listed anadromous salmonids associated with the following unlisted salmon hatchery programs that are expected to be implemented during 2001 through 2005:

Lake Wenatchee Sockeye Salmon Supplementation Program

The program's purpose is to mitigate for the loss of sockeye salmon attributable to the construction and operation of Rock Island Dam on the mainstem Columbia River. Lake Wenatchee sockeye salmon are collected as broodstock from the run at large at Tumwater Dam on the Wenatchee River from July 15 through early August each year. The annual broodstock collection goal is approximately 300 adults. Eggs and juvenile sockeye salmon are incubated and early reared at WDFW's Eastbank Fish Hatchery, located on the mainstem Columbia River near Rocky Reach Dam. The fish are transferred as fed fry to net pens in Lake Wenatchee in early April. After 6 or 7 months of rearing, up to 200,000 sockeye salmon juveniles are liberated during September and October from the net pens into Lake Wenatchee.

Dryden Pond – Eastbank Hatchery Summer Chinook Salmon Program

The purpose of this artificial propagation program in the Wenatchee River Basin is to mitigate for the loss of summer chinook salmon due to hydropower mortalities at Rocky Reach and Rock Island dams. Broodstock collection facilities located at Dryden Dam and Tumwater Dam on the Wenatchee River collect up to 492 native Wenatchee River adult summer chinook between July and November each year for the program. WDFW's Eastbank Hatchery, located on the mainstem Columbia River, is used for spawning, incubation and early rearing. Pre-smolt summer chinook salmon produced at Eastbank Hatchery are transferred to Dryden Pond on the Wenatchee River for acclimation and release. Up to 864,000 yearling summer chinook salmon are released into the Wenatchee River each year.

Carlton Pond – Eastbank Hatchery Summer Chinook Salmon Program

The purpose of this summer-run chinook salmon artificial propagation program is to mitigate for the loss of summer chinook salmon adults that would have been produced in the Methow River Basin in the absence of the Wells, Rocky Reach, and Rock Island hydroelectric projects. Summer chinook salmon used as broodstock are the progeny of natural or hatchery-origin fish originating from the Methow and Okanogan river watersheds collected in July and August at Wells Dam and at WDFW's Wells Hatchery trap on the mainstem Columbia River. Up to 492 summer chinook salmon adults may be collected as broodstock each year. WDFW's Eastbank Hatchery is used for spawning, incubation and early rearing. Summer-run chinook salmon juveniles produced at Eastbank Hatchery are transferred to Carlton Pond on the Methow River for acclimation and release. Up to 400,000 yearling summer chinook smolts may be released into the Methow River each year through the program.

Similkameen Pond – Eastbank Hatchery Summer Chinook Salmon Program

The purpose of the Similkameen Pond - Eastbank Hatchery program is to mitigate for the loss of summer chinook salmon adults that would have been produced in the Okanogan River Basin in the absence of Wells, Rocky Reach, and Rock Island hydroelectric projects. Summer-run chinook used in the program originate from natural or marked hatchery-origin fish collected at the Wells Dam and Wells Hatchery traps. These brood sources are representative of the summer-run population indigenous to the Okanogan River system. Up to 556 adult fish are collected in July and August each year as broodstock. WDFW's Eastbank Hatchery is used for fish spawning, incubation and early rearing. Summer chinook juveniles produced at Eastbank Hatchery are transferred in the fall to Similkameen Pond in the upper Okanogan River watershed for acclimation and release. The fish are reared to yearling smolt size in the pond through the winter for release in the spring to acclimate the chinook to the release site. Up to 576,000 summer chinook salmon yearling smolts may be released in the spring each year.

Priest Rapids Fish Hatchery Fall Chinook Salmon Program

The goal of the Priest Rapids upriver bright chinook salmon program is to mitigate for the loss of fall-run chinook salmon adults that would have been produced in the region in the absence of the Priest Rapids Project (Priest Rapids and Wanapum dams) and John Day Dam. Up to 6,102 adult fish may be collected as volunteers to the hatchery

trap for use as broodstock each year. Fish are spawned at the hatchery, and eggs and fish are incubated and reared at the hatchery site. All fish are reared for several months for release in June of each year as sub-yearlings. The annual fish release goal for the program is 6,700,000 fall chinook salmon sub-yearlings.

Eastbank Fish Hatchery Summer Chinook Salmon Program

The hatchery began operation in 1989 to mitigate for salmon smolt losses resulting from the operation of Rock Island Dam. The hatchery is used for incubation and rearing of unlisted summer chinook and sockeye salmon. Eastbank Hatchery is located on the east side of the Columbia River near Rocky Reach Dam, seven miles north of Wenatchee, Washington. The hatchery is operated with five satellite facilities, located on five different rivers in the action area: Dryden Pond on the Wenatchee River, Chiwawa Pond on the Chiwawa River, Carlton Pond on the Methow River, and Similkameen Pond on the Similkameen River. Broodstock are not collected at Eastbank Hatchery. There are no on-station releases of fish at Eastbank Hatchery into the mainstem Columbia River. Releases of fish reared at Eastbank Hatchery and transferred to other locations are described above.

Turtle Rock Fish Hatchery Summer Chinook Salmon Program

The Turtle Rock Hatchery is located adjacent to the Columbia River two miles upstream from Rocky Reach Dam at river mile 476 on the Columbia River. The hatchery is operated as a mitigation facility for fishery impacts caused by the construction and operation of Rocky Reach Dam. Summer chinook salmon broodstock are not collected at Turtle Rock Hatchery. Currently, broodstock for the program is provided annually through collection of summer chinook salmon volunteers to the Wells Hatchery trap in July and August. Eggs taken from spawners at Wells Hatchery are shipped to Turtle Rock Hatchery and for incubation then to WDFW's Rocky Reach Hatchery for rearing. The annual hatchery production goals are 200,000 yearling summer chinook and 1,600,000 sub-yearling summer chinook salmon for release from Turtle Rock Hatchery. Yearlings are released in April and sub-yearlings are released in June of each year.

Wells Salmon Hatchery Summer Chinook Salmon Program

Wells Hatchery is located on the mainstem Columbia River just below Wells Dam. The hatchery operates as a mitigation facility for salmon fishery impacts caused by Wells Dam. Summer chinook adults collected as broodstock for the Wells Hatchery summer chinook program are trapped each year in July and August at the hatchery from summer chinook volunteers to the hatchery trap. The collective annual broodstock collection goal at the Wells Hatchery volunteer trap is 1,208 adults for the Wells and Turtle Rock programs. Progeny of spawners trapped at Wells Hatchery are incubated and reared on-station. The annual Wells Hatchery on-station release goals are 320,000 summer chinook yearlings released in April and 484,000 accelerated sub-yearlings released in June.

Incidental mortalities of ESA-listed fish associated with the WDFW unlisted salmon hatchery programs are requested at levels specified in the Permit application and in the HGMPs. WDFW is proposing to limit broodstock collection and juvenile fish production and release methods applied at the hatcheries such that the incidental impacts on ESA-listed salmonids will be minimized. Two alternatives for the WDFW hatchery programs were provided in the Plan and HGMPs, including: (1) the no action alternative; (2) and the proposed conservation plan alternative (based on implementation of the hatchery programs with a comprehensive monitoring program).

Environmental Assessment/Finding of No Significant Impact

The EA package includes a draft EA and a draft Finding of No Significant Impact which concludes that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102 (2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended. Three Federal action alternatives have been analyzed in the draft EA, including: (1) the no action alternative; (2) issue a permit with conditions; and (3) issue a permit without conditions.

This notice is provided pursuant to section 10(c) of the ESA and the NEPA regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the NEPA regulations and section 10 (a) of the ESA. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed anadromous salmonids under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30–day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: October 10, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–25980 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 200
Tuesday, October 16, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Intergovernmental Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee (IAC) will meet on November 1, 2001, at the Embassy Suites, 319 SW. Pine Street, Portland, Oregon 97204, in the Gevertz Ceremonial Room on the Mezzanine Level. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan (NFP). The meeting will begin at 9:30 a.m. and continue until 4 p.m. The present agenda, which is subject to change, calls for discussion of the following items, among others: Implementation Monitoring; thinning dense, young tree stands in Late-Successional Reserves to achieve ecological objectives; the process for Regional Interagency Executive Committee/Regional Ecosystem Office review of modifications to NFP Standards & Guidelines or Land Allocations; and the 2001 Survey & Manage Annual Species Review. The meeting will be open to the public and is fully accessible for people with disabilities. Interpreters are available upon request no less than 2 weeks in advance. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Steve Odell, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–808–2166).

Dated: October 3, 2001.

Stephen J. Odell,

Designated Federal Official.

[FR Doc. 01–25950 Filed 10–15–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Basin Electric Power Cooperative; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality regulations (40 CFR parts 1500–1508), and RUS Environmental Policies and Procedures (7 CFR part 1794), has made a finding of no significant impact (FONSI) with respect to a wind energy project proposed by Basin Electric Power Cooperative (Basin Electric) of Bismarck, North Dakota, and East River Electric Power Cooperative (East River) of Madison, South Dakota. The wind facility will be constructed in Brule County, South Dakota and will consist up to three 1.3 MW wind turbine generators. Power produced by the facility will be transmitted via underground line to the existing Hilltop Substation owned by the East River Electric. RUS may provide financial assistance to Basin Electric for this project.

RUS has concluded that the impacts of the proposed project would not be significant and the proposed action is not a major federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

FOR FUTHER INFORMATION CONTACT: Nurul Islam, Environmental Protection Specialist, Rural Utilities Service, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone: (202) 720–1414, e-mail: *nislam@rus.usda.gov.* Information is also available from Mr. James A. Berg, Water Quality/Waste Management Coordinator, Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota 58501, telephone (701) 223–0441. His e-mail address is: *jberg@bepc.com.*

SUPPLEMENTARY INFORMATION: RUS, in accordance with its environmental policies and procedures, required that Basin Electric prepare an Environmental Analysis reflecting the potential impacts of the proposed facilities. The Environmental Analysis, which includes input from federal, state, and local agencies, has been reviewed and accepted as RUS' Environmental Assessment (EA) for the project in accordance with 7 CFR 1794.41. The proposed project will consist of constructing up to three 1.3 MW wind turbine generators. All three turbines would be located on a 160-acre quarter section of land that has been designated to build the facility. Electric power produced from the turbine will be delivered to the existing Hilltop Substation of East River Electric via 12.47 kV underground feeder. The underground feeder line from the turbine site to the East River Hilltop Substation would be approximately 2.25 miles.

The total amount of farmland that would be converted to non-agricultural use would be about 1.56 acres including access roads. The nearest airport, the Chamberlain Airport, is located approximately five miles south of Site B (preferred site). The Federal Aviation Administration has determined that the proposed facility will not pose any hazards to air navigation. The South Dakota Department of Transportation, Aeronautics Commission, has issued a permit to build three wind turbines. Therefore, the construction of the proposed project is not in conflict with any other intended land uses in the area. There are no floodplains or wetlands in the vicinity of the project location; therefore, no impact is anticipated. The bald eagle, a threatened species, and the whooping crane, an endangered species may inhabit or migrate through the project area. No construction shall occur within 0.25 mile of any known active bald eagle nests. The whooping crane is considered to be primarily a migrant through the area, and is not anticipated to be affected by the proposed project. East River Electric will follow the mitigation measures proposed by the US Fish and Wildlife Service. Therefore,

RUS has determined that no threatened or endangered species would be likely to be impacted by the proposed construction. A Phase I cultural resources survey was performed for two locations for the proposed wind turbine project. The survey found no eligible sites. State Historic Preservation Officer (SHPO) has concurred with the findings in their letter dated April 2, 2001. Basin Electric has agreed to continue consultation with the Yankton Sioux Tribe and the Lower Brule Sioux Tribe as the project progresses. RUS believes the project will have no impact on cultural and historic properties due to construction of the proposed project. The project is approved contingent on the following condition: if archaeological remains are discovered during construction activities, the work shall be stopped and the SHPO and RUS notified immediately. The project site is outside of the view shed of any public facilities. There are two residences to the north and east within one mile of the proposed site. It is estimated that the operational-related noise level at the nearest residence would be approximately 37 bBA. This noise level is below the acceptable federal standard. Based on this information RUS has determined that no adverse impacts are anticipated due to noise level produced during the operation of the proposed project.

Basin Electric published notices of the availability of the EA and solicited public comments per 7 CFR 1792.42. Notices of availability of EA were published in the Central Dakota Times, Chamberlain, South Dakota and the Chamberlain-Oacoma Register, Chamberlain, South Dakota for a 30-day comment period. The 30-day comment period on the EA for the proposed wind facility project ended September 7, 2001. No comments were received on the EA.

Based on the EA, RUS has concluded that the proposed action will not have a significant effect to various resources, including important farmland, floodplains, wetlands, cultural resources, threatened and endangered species and their critical habitat, and noise. RUS has also determined that there would be no negative impacts of the proposed project on minority communities and low-income communities as a result of the construction of the project.

The EA and the FONSI are available for public review at the following locations:

Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota 58501, Phone: (701) 223–0441

East River Electric Power Cooperative, 121 Southeast 1st Street, Madison, South Dakota 57042, Phone: (605) 256–4536

Central Electric Power Cooperative, 1420 North Main, Mitchell, South Dakota 57301, Phone: (605) 996–6516

Cozard Memorial Library, 110 East Laeler Avenue, Chamberlain, South Dakota 57325, Phone: (605) 734–4414

U.S. Department of Agriculture, Rural Utilities Service, Engineering & Environmental Section, 1400 Independence Avenue, SW., Room 2240, Washington, DC 20250–1571, Phone: (202) 720–1414

Dated: October 10, 2001.

Alfred Rodgers,

Acting Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 01–25948 Filed 10–15–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Weather Radio Transmitter Grant Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: On April 4, 2001, the Rural Utilities Service (RUS) published a Notice of Funds Availability (NOFA) in the **Federal Register** (66 FR 17857, April 4, 2001) announcing a new grant program, and the availability of grant funds under this program, to finance the installation of new transmitters to extend the coverage of the National Oceanic and Atmospheric Administration's Weather Radio system (NOAA Weather Radio) in rural America. Included in the NOFA was a list of proposed NOAA Weather Radio transmitter sites that would be eligible for funding.

The primary purpose of this notice is to provide an updated listing of the proposed NOAA Weather Radio transmitter sites. An applicant for a grant under this program may apply for a site included in this updated listing or in the original listing published April 4, 2001. An additional purpose of this notice is to provide a clarification of how to calculate the maximum allowable grant amount. Finally, RUS emphasizes again that it strongly encourages all grant applicants to consult and coordinate with the National Weather Service prior to submitting a completed application.

Further details on the application process and eligibility are available in the NOFA in the April 4, 2001, **Federal Register** (66 FR 17857).

DATES: Applications for grants will be accepted until grants totaling $5 million in appropriations have been made.

FOR FURTHER INFORMATION CONTACT: Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, STOP 1590, 1400 Independence Avenue, SW., Washington, DC 20250–1590, Telephone (202) 720–9554, Facsimile (202) 720–0810.

SUPPLEMENTARY INFORMATION:

Clarification of Grant Amount

Some grant applicants have been confused about how to calculate the maximum amount of grant allowed. The following is provided to try to eliminate that confusion. The percentage of total project costs eligible for grant funds is based on the population of the site and the per capita income of the county where the site is located. Grant assistance will be provided on a graduated scale with sparser, lower income communities eligible for a higher proportion of total project costs to be funded by a grant (i.e., 75, 65, or 55 percent). An applicant should base the computation of the eligible grant amount on the total project cost, which includes the value of the matching funds and in-kind facilities, such as tower space, building space, and electric power. The grant can usually cover all eligible equipment and installation costs, up to $80,000, if sufficient matching funds are provided. Note, however, that RUS grant funds cannot exceed the actual equipment and installation costs.

For example:

eligible equipment and installation costs = $60,000

matching funds = 84,000

(tower space for 15 years = $54,000)

(building space for 15 years = $18,000)

(electric power for 15 years = $12,000)

total project costs (equipment & match) = $144,000

(project cost of $144,000 × required 75% = $108,000)

However, the grant is limited to the lesser of $80,000 (maximum grant amount) or the actual equipment and installation costs. Therefore, in this case the grant would be for $60,000.

Updated List

An area's need for a new NOAA Weather Radio transmitter is

determined by its inherent risk of hazardous weather and the absence of adequate coverage by an existing transmitter. RUS, in consultation with the National Weather Service, has developed the attached updated list of proposed transmitter sites that will be eligible for funding under the NOFA published in the April 4, 2001, **Federal Register**.

RUS will continue to update its list from time to time and will publish updates in the **Federal Register**.

Dated: October 10, 2001.

Roberta D. Purcell,

Acting Administrator, Rural Utilities Service.

BILLING CODE 3410–15–P

NWR SITE LISTING

State and Site Name	County Name	FIPS	Latitude	Longitude
ALABAMA				
ONEONTA	BLOUNT	01009	34-03-04N	86-29-01W
GREENVILLE	BUTLER	01013	31-49-46N	86-37-04W
ROCKFORD	COOSA	01037	32-55-06N	86-16-04W
SELMA	DALLAS	01047	32-29-08N	87-06-02W
BREWTON	ESCAMBIA	01053	31-06-18N	87-04-20W
LEAKESVILLE	GREENE	01063	32-55-05N	88-02-14W
PLEASANT RIDGE	GREENE	01063	32-27-01N	88-17-50W
ALASKA				
SAND POINT	ALEUTIANS EAST	02013	55-20-39N	160-29-27W
BETHEL	BETHEL	02050	60-47-32N	161-45-21W
NAKNEK	BRISTOL BAY	02060	58-43-17N	157-01-00W
DILLINGHAM	DILLINGHAM	02070	59-02-23N	158-27-27W
NINILCHIK	KENAI PENNINSULA	02122	60-03-00N	151-38-42W
WASILLA	MATANUSKA	02170	61-34-16N	149-26-45W
BARROW	NORTH SLOPE	02185	71-17-25N	156-46-43W
KOTZEBUE	NW ARCTIC BOROUGH	02188	66-53-54N	162-35-48W
CAPE SPENCER	SKAGWAY-HOONAH-ANGOON	02232	58-12-34N	136-39-12W
GUSTAVUS	SKAGWAY-HOONAH-ANGOON	02232	58-24-40N	135-45-29W
TOK	SOUTHEAST FAIRBANKS	02240	63-18-47N	143-00-29W
GLEN ALLEN	VALDEZ-CORDOVA	02261	62-06-33N	149-59-50W
KAKE	WRANGELL-PETERSBURG	02280	56-28-24N	133-56-55W
AMERICAN SAMOA				
LE'OLO RIDGE	MANU'A	60020	14-10-00S	169-40-00W
MT ALVA	EASTERN	60010	14-13-55S	170-33-47W
MT OLOTELE	WESTERN	60050	14-15-00S	170-40-00W
PAGO PAGO	EASTERN	60010	14-13-55S	170-33-47W
ARIZONA				
APACHE (N OF CHINLE)	APACHE	04001	35-23-01N	109-29-18W
DRAGOON PEAK	COCHISE	04003	32-00-05N	109-59-18W
COCONINO COUNTY	COCONINO	04005	35-05-09N	111-23-40W
PAYSON	GILA	04007	34-13-51N	111-19-28W
GREENLEE COUNTY	GREENLEE	04011	33-11-06N	109-13-59W
PARKER	LA PAZ	04012	33-43-08N	113-32-02W
BEAVER DAM [or MESQUITE,NV]	MOHAVE	04015	36-53-55N	113-56-02W
COLORADO CITY	MOHAVE	04015	36-59-24N	112-58-32W
LAKE HAVASU	MOHAVE	04015	34-29-02N	114-19-18W
MOHAVE	MOHAVE	04015	34-29-02N	114-19-18W
KYKOTSMOVI	NAVAJO	04017	36-11-54N	109-32-14W
PIMA	PIMA	04019	32-06-14N	111-48-53W
NOGALES	SANTA CRUZ	04023	31-20-25N	110-56-01W
EYUMA COUNTY	YUMA	04027	32-45-06N	114-00-18W
ARKANSAS				
FOUNTAIN HILL	ASHLEY	05003	33-21-28N	91-51-01W
HARRISON / JASPER	BOONE	05009	35-31-50N	94-23-32W
MAGNOLIA	COLUMBIA	05027	33-15-33N	93-14-00W
MORRILTON	CONWAY	05029	35-18-07N	92-39-04W
MARIANNA / CLARENDON	LEE / MONROE	05077	34-46-58N	90-46-09W

BRINKLEY / FOREST CITY	MONROE / ST. FRANCIS	05095	34-53-16N	91-11-40W
MOUNT IDA	MONTGOMERY	05097	34-33-24N	93-38-02W
MARVELL	PHILLIPS	05107	34-33-20N	90-54-46W
MENA	POLK	05113	37-24-53N	94-12-47W
PLEASANT GROVE / MT. HOLLY	UNION	05139	33-05-46N	92-33-05W
RUSSELLVILLE	WHITE	05145	35-17-05N	91-44-03W
CALIFORNIA				
YOSEMITE	CALAVERAS	06009	37-44-43N	119-35-50W
REDWOOD SP	DEL NORTE	06015	41-45-58N	124-02-48W
HORSE MOUNTAIN	HUMBOLDT	06023	40-39-03N	123-51-04W
MT PIERCE	HUMBOLDT	06023	40-39-03N	123-51-04W
ORLEANS	HUMBOLDT	06023	40-39-03N	123-51-04W
DEATH VALLEY	INYO	06027	36-35-01N	117-26-08W
INDEPENDENCE / NEW YORK BUTTE	INYO	06027	38-35-47N	120-25-03W
BRECKENRIDGE MTN	KERN	06029	35-19-02N	118-40-05W
LAKEPORT	LAKE	06033	39-06-06N	122-44-04W
SUSANVILLE	LASSEN	06035	40-24-59N	120-39-07W
CATALINA ISLAND (MARINE)	LOS ANGELES	06037	33-20-34N	118-19-36W
MOUNT WILLSON (SPANISH)	LOS ANGELES	06037	34-09-09N	118-12-1W
MT WILLSON (MARINE)	LOS ANGELES	06037	34-09-09N	118-12-1W
UKIAH	MENDOCINO	06045	39-26-04N	123-23-00W
MAMMOTH	MODOC	06049	41-43-50N	121-21-14W
BIG SUR	MONTEREY	06053	36-16-13N	121-49-10W
LAKE ELSINORE	ORNAGE	06059	33-38-05N	117-49-01W
PORTOLA MT	PLUMAS	06063	40-01-10N	120-44-30W
CALICO PEAK	SAN BERNADINO	06071	34-29-03N	116-00-07W
PT LOMA (MARINE)	SAN DIEGO	06073	33-03-09N	116-29-03W
SAN DIEGO (SPANISH)	SAN DIEGO	06073	33-03-09N	116-29-03W
SAN DIEGO	SAN DIEGO	06073	33-03-09N	116-29-03W
SAN DIEGO (2 SITES)	SAN DIEGO	06073	33-44-58N	117-06-33W
CAMBRIA	SAN LUIS OBISPO	06079	35-33-50N	121-04-50W
CUESTA PEAK (MARINE)	SAN LUIS OBISPO	06079	34-09-09N	118-12-1W
SAN SIMEON	SAN LUIS OBISPO	06079	35-38-37N	121-11-26W
MT UMUNHUM	SANTA CLARA	06085	37-16-01N	121-16-08W
MT. SHASTA	SISKIYOU	06093	41-18-36N	122-18-58W
LAYTONVILLE	TRINITY	06105	40-40-04N	123-02-07W
TRINITY	TRINITY	06105	40-35-00N	123-10-00W
WEAVERVILLE	TRINITY	06105	40-40-04N	123-02-07W
LAKE CASITAS	VENTURA	06111	34-23-24N	119-23-39W
MODELO PEAK	VENTURA	06111	34-27-02N	118-48-03W
MOUNT PINOS	VENTURA	06111	34-48-46N	119-08-43W
NORDHOFF PEAK	VENTURA	06111	34-29-52N	119-14-30W
OJAI	VENTURA	06111	34-20-09N	119-03-04W
PINE MOUNTAIN	VENTURA	06111	34-38-02N	119-17-17W
REYES PEAK	VENTURA	06111	34-37-50N	119-16-53W
SISAR PEAK	VENTURA	06111	34-26-27N	119-08-02W
SOUTH MOUNTAIN	VENTURA	06111	34-19-59N	119-01-03W
SULPHUR MOUNTAIN	VENTURA	06111	34-24-58N	118-51-19W
TORREY PEAK	VENTURA	06111	34-23-20N	118-47-49W
COLORADO				
DEERTRAIL	ADAMS	08005	39-35-41N	103-59-22W

PAGOSA SPRINGS	ARCHULETA	08007	37-16-10N	107-00-33W
SPRINGFIELD	BACA	08009	37-24-30N	102-36-50W
SALIDA	CHAFFEE	08015	38-32-05N	105-59-54W
CHEYENNE WELLS	CHEYENNE	08017	38-49-00N	103-31-20W
EISENHOWER TUNNEL	CLEAR CREEK	08019	39-40-59N	105-55-08W
FRANKTOWN	DOGULAS	08035	39-20-06N	104-53-06W
EAGLE	EAGLE	08037	39-39-19N	106-49-41W
CANON CITY	FREMONT	08043	38-24-00N	105-13-00W
IDAHOE SPRINGS	GILPIN	08047	39-52-14N	105-29-00W
HOT SULPHUR	GRAND	08049	40-04-23N	106-06-08W
GUNNISON	GUNNISON	08051	38-32-45N	106-55-29W
WALSENBURG	HUERFANO	08055	37-37-27N	104-46-47W
WALDEN	JACKSON	08057	40-43-54N	106-15-59W
LEADVILLE	LAKE	08065	39-15-03N	106-17-31W
DURANGO	LA PLATA	08067	37-16-31N	107-52-46W
TRINIDAD	LAS ANIMAS	08071	37-20-01N	103-58-07W
LIMON / BOYERO	LINCOLN	08073	39-15-50N	103-41-30W
CRAIG	MOFFAT	08081	40-30-55N	107-32-45W
CORTEZ	MONTEZUMA	08083	37-28-26N	108-30-14W
MONTROSE	MONTROSE	08085	38-28-42N	107-52-32W
NATURITA	MONTROSE	08085	37-19-05N	108-33-08W
NUCLA	MONTROSE	08085	38-29-14N	107-54-17W
HARTSEL	PARK	08093	39-01-18N	105-47-43W
HOLYOKE	PHILLIPS	08095	40-38-00N	102-24-00W
ASPEN	PITKIN	08097	39-11-28N	106-49-01W
LAMAR	PROWERS	08099	38-05-14N	102-37-13W
MEEKER	RIO BLANCO	08103	40-02-15N	107-54-45W
RANGELY	RIO BLANCO	08103	40-08-50N	109-59-07W
STEAMBOAT SPRINGS	ROUTT	08107	40-31-07N	106-53-03W
NUCLA	SAN MIGUEL	08113	38-01-02N	108-23-03W
JULESBURG	SEDGWICK	08115	40-56-35N	102-21-28W
ANTON	WASHINGTON	08121	39-44-30N	103-13-00W
CONNECTICUT				
CORNWALL	LITCHFIELD	09005	41-47-16N	73-12-36W
FLORIDA				
CORAL SPRINGS	BROWARD	12011	26-16-10N	80-16-06W
CALHOUN	CALHOUN	12013	30-24-09N	85-10-08W
NORTH MIAMI	DADE	12025	25-33-05N	78-54-03W
SOUTH MIAMI	DADE	12025	25-33-05N	78-54-03W
PALMDALE	GLADES	12043	26-57-09N	81-05-07W
TAMPA	HILLSBOROUGH	12057	27-56-50N	82-27-31W
SNEADS	JACKSON	12063	30-42-27N	84-55-28W
MARIANNA	JACKSON	12063	30-46-27N	85-13-37W
KEYWEST	MONROE	12087	24-33-39N	81-47-59W
SOUTHEAST ORANGE	ORANGE	12095	28-38-05N	81-13-02W
INTERLACHEN	PUTNAM	12107	29-36-05N	81-42-09W
GEORGIA				
DUBLIN	LAURENS	13175	32-32-25N	82-54-14W
BOYKIN	MILLER	13201	31-09-12N	84-32W-39
EATONTON	PUTNAM	13237	33-19-36N	83-23-19W
GLASSY MTN.	RAYBUN	13241	34-50-41N	83-29-59W

LA GRANGE	TROUP	13285	33-02-16N	85-01-37W
HAWAII				
KAHAUA	HAWAII	15001	19-35-00N	155-58-09W
KAILUA KONA	HAWAII	15001	19-35-04N	155-30-09W
KANEOHE	HONOLULU	15003	19-35-04N	155-30-09W
DIAMOND HEAD CRATER	HONOLULU	15003	21-29-01N	157-59-01W
HANALEI	KAUAI	15007	22-12-19N	159-30-10W
N.E. KAUAI	KAUAI	15007	22-06-00N	159-31-07W
KAANAPALI	MAUI	15009	20-47-06N	156-19-20W
LAHAINA	MAUI	15009	20-52-42N	156-40-57W
IDAHO				
SEDGWICK PEAK	BANNOCK	16005	42-30-56N	111-55-23W
SUN VALLEY	BLAINE	16013	43-41-50N	114-21-03W
SAND POINT	BONNER	16017	48-16-36N	116-33-08W
BURLEY / MT HARRISON	CASSIA	16031	42-17-20N	113-40-40W
ISLAND PARK	FREMONT	16043	44-14-07N	111-28-50W
GRANGEVILLE	IDAHO	16049	45-55-36N	115-33-40W
SALMON	LEMHI	16059	45-10-33N	113-53-42W
SODA SPRINGS	ONEIDA	16071	42-15-00N	112-26-20W
KELLOGG	SHOSHONE	16079	47-32-18N	116-07-06W
WASHINGTON CITY	WASHINGTON	16087	43-53-32N	115-47-27W
ILLINOIS				
BLOOMINGTON	MCLEAN	17113	40-31-20N	88-49-50W
OLNEY	RICHLAND	17159	38-43-51N	88-05-07W
LENA	STEPHENSON	17177	42-22-58N	89-49-31W
INDIANA				
BROOKEVILLE	FRANKLIN	18047	39-24-17N	85-03-14W
ROCHESTER	FULTON	18049	40-45-08N	86-45-00W
MOROCCO	NEWTON	18111	40-56-46N	87-27-12W
SPENCER / COAL CITY	OWEN	18119	39-17-12N	86-45-45W
ANGOLA	STEUBEN	18151	41-38-05N	84-59-58W
NEWPORT	VERMILLION	18165	39-51-14N	87-24-30W
IOWA				
SPIRIT LAKE	DICKINSON	19059	42-26-45N	95-00-46W
IOWA FALLS	HARDIN	19083	42-31-14N	93-15-40W
MAQUOKETA	JOHNSON	19103	42-03-27N	90-39-52W
FENTON	KOSSUTH	19109	43-11-55N	94-29-34W
WESLEY	KOSSUTH	19109	45-05-20N	93-59-22W
MARSHALLTOWN	MARSHALL	19127	42-02-51N	92-51-42W
ALBIA	MONROE	19133	41-00-02N	92-48-41W
SHENANDOAH	PAGE	19145	40-45-29N	95-20-39W
MONTEZUMA	POWESHIEK	19157	41-36-35N	92-33-45W
LENOX	TAYLOR	19173	40-50-32N	94-37-56W
DECHORAH	WINNESHIEK	19191	43-18-56N	91-47-18W
KANSAS				
FT SCOTT	BOURBON	20011	37-51-00N	94-42-09W
BURLINGTON	COFFEY	20031	38-31-06N	95-40-30W
POMONA	FRANKLIN	20059	38-36-21N	95-27-12W
HILL CITY	GRAHAM	20065	39-21-53N	99-50-30W
ULYSSES	GRANT	20067	37-33-08N	101-71-20W
ZENDA	KINGMAN	20095	37-34-00N	98-08-30W

HAVILAND / BELVIDERE	KIOWA	20097	37-37-10N	99-06-22W
DIGHTON	LANE	20101	38-31-10N	100-30-10W
MOUND CITY	LINN	20107	38-13-01N	94-49-01W
MARYSVILLE	MARSHALL	20117	39-49-30N	96-23-06W
MEADE	MEADE	20119	37-17-08N	100-20-23W
NESS CITY	NESS	20135	38-27-10N	99-54-22W
OSBORNE	OSBORNE	20141	39-26-20N	98-41-40W
KIRWIN LAKE	PHILLIPS	20147	39-46-10N	99-18-00W
PRATT	PRATT	20151	37-37-10N	99-06-22W
LIBERAL	SEWARD	20175	37-10-00N	100-49-50W
KENTUCKY				
KELTNER	ADAIR	21001	37-32-36N	85-06-24W
CLOVERPORT	BRECKINRIDGE	21027	37-50-00N	86-37-58W
BURKESVILLE	CUMBERLAND	21057	36-47-25N	85-22-14W
OWENSBORO	DAVIES	21059	37-42-10N	87-06-20W
STEWARTSVILLE	GRANT	21081	38-38-00N	84-37-00W
GREENSBURG	GREEN	21087	37-15-39N	85-29-56W
WASHINGTON	MASON	21161	38-36-00N	83-48-00W
EKRON	MEADE	21163	38-19-54N	85-18-54W
WHITESVILLE	OHIO	21183	37-32-33N	89-50-12W
OWENTON	OWEN	21184	38-44-36N	84-19-42W
CAMPBELLSVILLE	TAYLOR	21217	37-25-43N	84-52-33W
LOUISIANA				
OAKDALE	ALLEN	22003	30-48-59N	92-39-39W
DERIDDER	BEAUREGARD	22011	30-50-46N	93-17-18W
BIENVILLE	BIENVILLE	22013	32-21-40N	92-58-38W
HOMER	CLAIBORNE	22027	32-46-49N	93-03-30W
REDDELL	EVANGELINE	22039	30-43-60N	92-22-30W
RUSTON	LINCOLN	22061	32-31-23N	92-38-16W
NATCHITOCHES	NATCHITOCHES	22069	31-50-00N	93-42-00W
MANY	SABINE PARISH	22085	31-34-07N	93-29-02W
LUTCHER	ST. JAMES	22093	30-32-25N	90-41-56W
BOGALUSA	WASHINGTON	22117	30-47-20N	89-50-55W
FRANKLINTON	WASHINGTON	22117	31-24-08N	88-13-09W
OAK GROVE	WEST CARROLL	22123	36-46-00N	91-27-20W
MAINE				
FRENCHVILLE	AROOSTOOK	23003	47-17-07N	68-18-41W
CARRABASSETT VALLEY	FRANKLIN	23007	45-03-58N	70-16-26W
OXFORD COUNTY	OXFORD	23017	44-07-54N	70-29-37W
MILLINOCKET / SPRINGFIELD	PENOBSCOT	23019	45-31-01N	68-38-40W
MILO	PISCATAQUIS	23021	45-50-33N	69-17-42W
SOLON	SOMERSET	23025	44-56-58N	69-51-32W
CUTLER	WASHINGTON	23029	44-58-08N	67-36-36W
MEDDYBEMPS	WASHINGTON	23029	45-02-18N	67-21-23W
MARYLAND				
FROSTBURG	ALLEGANY	24001	39-39-54N	78-53-53W
SUDLERSVILLE	QUENN ANNE'S	24053	39-10-31N	75-55-06W
MASSACHUSETTS				
EGREMONT	BERKSHIRE	25003	42-22-50N	73-13-60W
ESSEX	ESSEX	25009	42-37-51N	70-46-21W
GREAT BERRINGTON	HAMPDEN	25013	42-20-01N	73-00-08W

MIDDLESEX	MIDDLESEX	25017	41-58-00N	71-01-00W
NANTUCKET ISLAND	NANTUCKET	25019	41-17-00N	70-05-00W
MICHIGAN				
GRAND MARAIS	ALGER	26003	46-40-15N	85-59-06W
CHEBOYGAN	CHEBOYGAN	26031	45-38-49N	84-28-28W
ESCANABA	DELTA	26041	45-44-43N	87-03-52W
PETOSKEY	EMMET	26047	45-22-24N	84-57-19W
IRONWOOD	GOGEBIC	26053	46-27-17N	90-10-15W
PORT AUSTIN	HURON	26063	42-02-46N	82-59-39W
CRYSTAL FALLS	IRON	26071	46-05-53N	88-20-02W
MT. PLEASANT	ISABELLA	26073	43-35-52N	84-46-03W
NEWBERRY	LUCE	26095	46-32-00N	85-36-00W
LUDINGTON	MASON	26105	44-02-40N	86-33-30W
WEST BRANCH	OGEMAW	26129	44-16-35N	84-14-19W
BERGLAND	ONTONAGON	26131	47-02-09N	88-48-50W
WEST OLIVE	OTTAWA	26139	44-16-35N	84-14-19W
CROSWELL	SANILAC	26151	43-28-00N	82-36-40W
STEUBEN	SCHOOLCRAFT	26153	46-19-00N	86-13-40W
MINNESOTA				
AITKIN	AITKIN	27001	46-39-50N	95-33-00W
NEW ULM	BROWN	27015	44-16-37N	94-26-28W
GULL LAKE	CASS	27021	46-24-29N	94-21-20W
JEFFERS	COTTONWOOD	27033	44-03-21N	95-11-47W
RED WING	GOODHUE	27049	44-35-24N	91-54-24W
WOODLAND	HENNEPIN	27053	44-57-03N	93-30-53W
COLERAINE	ITASCA	27061	47-17-20N	93-25-39W
LAKE BRONSON	KITTSON	27069	48-44-08N	96-39-45W
FINLAND	LAKE	27075	46-41-50N	95-19-09W
BAUDETTE	LAKE OF THE WOOD	27077	48-42-44N	94-36-00W
RUSSELL	LYON	27083	44-24-30N	95-47-20W
SILVER LAKE	MCLEOD	27085	45-00-42N	93-13-12W
WINONA	MURRAY	27101	44-01-30N	96-33-40W
TWIN VALLEY	NORMAN	27107	47-15-36N	96-15-32W
DALTON	OTTER TAIL	27111	46-10-26N	95-54-55W
PINE CITY	PINE	27115	45-52-30N	92-33-00W
ORR	ST LOUIS	27137	48-49-54N	88-33-36W
VIRGINIA	ST LOUIS	27137	48-03-30N	86-54-24W
APPLETON	SWIFT	27151	45-10-03N	95-59-59W
LONE PRAIRIE	TODD	27153	46-14-54N	94-30-00W
WINONA	WINONA	27169	44-03-30N	91-31-40W
MISSISSIPPI				
LEAKESVILLE / NEELY / AVERA	GREENE	28041	31-09-20N	88-33-28W
HATLEY / ABERDEEN	MONROE	28095	33-58-36N	88-25-14W
WILMOT	WASHINGTON	28151	33-18-25N	90-53-49W
MISSOURI				
CASSVILLE	BARRY	29009	36-42-09N	93-49-20W
BATES	BATES	29013	38-15-01N	94-21-00W
CAPE GIRARDEAU	CAPE GIRARDEAU	29031	37-25-10N	89-26-50W
CARROLLTON	CARROLL	29033	39-36-50N	93-34-20W
ELDORADO SPRINGS	CEDAR	29039	37-52-13N	94-01-53W
JEFFERSON CITY	COLE	29051	38-31-09N	92-16-30W

PRAIRIE HOME	COPER	29053	38-48-47N	92-35-25W
GALT	GRUNDY	29079	40-07-00N	93-34-00W
SHAWNEE MOUND	HENRY	29083	38-27-20N	93-49-00W
CLINTON	JOHNSON	29101	38-45-14N	93-45-30W
SALINE	MERCER	29129	40-31-37N	93-43-40W
MARYVILLE	NODAWAY	29147	38-23-48N	93-49-35W
GAINESVILLE	OZARK	29153	36-32-45N	92-38-57W
KAMO	STONE	29209	36-44-23N	91-27-38W
FT. LEONARD WOOD	TEXAS	29215	37-42-57N	92-02-00W
MONTANA				
DILLON	BEAVERHEAD	30001	45-12-59N	112-38-12W
BLAINE (FT. BELKNAP RES.)	BLAINE	30005	48-26-09N	108-57-43W
EKALAKA	CARTER	30011	46-16-38N	104-25-60W
BAKER	FALLON	30025	46-21-47N	104-16-26W
LEWISTOWN	FERGUS	30027	47-03-45N	109-25-39W
BOZEMAN	GALLATIN	30031	45-40-47N	111-02-16W
JORDAN	GARFIELD	30033	47-25-06N	107-02-00W
CUT BANK	GLACIER	30035	48-37-59N	112-19-31W
GLACIER NP / BROWNING	GLACIER	30035	48-41-15N	113-48-15W
PHILIPSBURG	GRANITE	30039	46-22-58N	113-24-57W
LIBBY	LINCOLN	30053	48-27-20N	115-22-11W
CIRCLE	MCCONE	30055	47-25-00N	105-35-30W
ST. REGIS	MINERAL	30061	47-17-58N	115-06-06W
SEELEY LAKE	MISSOULA	30063	47-12-56N	113-36-45W
BROADUS	POWDER RIVER	30075	45-26-38N	105-24-25W
POPLAR	ROOSEVELT	30085	48-16-48N	104-58-30W
THOMPSON FALLS	SANDERS	30089	47-41-50N	115-06-20W
NEBRASKA				
ALBION / COLUMBUS	BOONE / PLATTE	31011	41-41-27N	98-00-12W
VALENTINE	CHERRY	31031	42-02-23N	100-53-29W
SIDNEY	CHEYENNE	31033	41-15-33N	102-57-47W
WEST POINT	CUMING	31039	41-55-40N	96-38-43W
MERNA	CUSTER	31041	41-23-04N	94-49-15W
CHADRON	DAWES	31045	42-49-46N	103-00-00W
JOHNSON LAKE	DAWSON	31047	40-41-42N	99-49-01W
CHAPPELL	DEUEL	31049	41-05-34N	102-28-13W
BEATRICE	GAGE	31067	40-28-12N	96-29-26W
LEWELLEN / OSHKOSH	GARDEN	31069	41-34-59N	102-13-36W
LEXINGTON	GOSPER	31073	38-45-14N	93-45-30W
MULLEN	HOOKER	31091	42-02-23N	101-02-32W
FAIRBURY	JEFFERSON	31095	40-08-14N	97-10-49W
PERU / FALLS CITY	NEMAHA / RICHARDSON	31127	40-28-27N	95-44-00W
SUPERIOR	NUCKOLLS	31129	40-03-35N	98-04-39W
SHELBY	POLK	31143	41-22-04N	98-29-40W
MCCOOK	RED WILLOW	31145	40-21-34N	100-11-23W
SHUBERT	RICHARDSON	31147	40-04-57N	95-23-38W
ORD	VALLEY	31175	41-22-38N	98-41-31W
NEVADA				
LAKE MEAD / LAKE MOHAVE	CLARK	32003	35-11-59N	114-34-17W
MESQUITE [or BEAVER DAM.AZ]	CLARK	32003	36-48-19N	114-04-01W
PAHRUMP	CLARK	32003	36-12-29N	115-59-02W

JACKPOT	ELKO	32007	41-59-00N	114-40-26W
WENDOVER	ELKO	32007	40-46-04N	114-06-56W
BATTLE MOUNTAIN	LANDER	32015	40-38-32N	116-56-00W
CALIENTE	LINCOLN	32017	37-24-46N	114-48-40W
HAWTHORNE	MINERAL	32021	38-32-31N	118-25-41W
BEATTY / DEATH VALLEY NP	NYE	32023	36-54-31N	116-45-30W
HAYDEN PARK	PERSHING	32027	40-23-60N	118-10-00W
LOVELOCK	PERSHING	32027	40-27-16N	118-22-34W
PYRAMID LAKE	WASHOE	32031	40-22-31N	119-45-01W
GREAT BASIN NP	WHITE PINE	32033	38-56-06N	114-14-37W
MCGILL	WHITE PINE	32033	39-24-32N	114-58-36W
NEW HAMPSHIRE				
HOLDEN HILL	COOS	33007	44-56-47N	71-20-49W
MT. WASHINGTON	COOS	33007	44-41-05N	71-10-19W
MOOSE MOUNTAIN	GRAFTON	33009	43-42-30N	72-09-16W
TENNEY MOUNTAIN	GRAFTON	33009	43-44-35N	71-50-30W
PACK MONADNOCK MT.	HILLSBOROUGH	33011	42-51-40N	71-52-45W
STRATHAM HILL	ROCKINGHAM	33015	43-02-22N	70-53-26W
NEW JERSEY				
SOUTHARD	MONMOUTH	34025	40-08-23N	74-13-21W
HAMBURG MTN.	SUSSEX	34037	41-08-37N	74-43-18W
NEW MEXICO				
GRANTS	CIBOLA	35006	35-08-50N	107-51-03W
ARTESIA	EDDY	35015	32-35-01N	104-38-44W
GUADALUPE MTN NP	EDDY	35015	32-27-00N	104-20-50W
SILVER CITY	GRANT	35017	32-46-12N	108-16-47W
SANTA ROSA	GUADALUPE	35019	34-56-36N	104-40-36W
GALLUP	MCKINLEY	35031	35-31-41N	108-44-31W
ALAMOGORDO	OTERO	35035	32-53-05N	105-57-27W
TUCUMCARI	QUAY	35037	35-10-18N	103-43-28W
RIO ARRIBA (JICARILLA APACHE)	RIO ARRIBA	35039	36-30-33N	106-41-49W
TAOS / CHAMA	RIO ARRIBA	35039	36-23-10N	105-34-38W
LAS VEGAS	SAN MIGUEL	35047	35-35-49N-	105-12-00W
TRUTH OR CONSEQUENCES	SIERRA	35051	33-07-42N	107-15-08W
SOCORRO	SOCORRO	35053	34-03-30N	106-53-27W
NEW YORK				
WELLSVILLE	ALLEGANY	36003	42-15-18N	78-01-19W
CHARLOTTE CENTER	CHAUTAUQUA	36013	42-15-02N	79-24-00W
NORWICH	CHENANGO	36017	42-31-52N	75-31-24W
SOUTHERN ADIRONDACK	HAMILTON	36041	44-00-01N	74-30-01W
MIDDLEVILLE	HERKIMER	36043	43-15-33N	74-27-07W
HAMILTON / WARREN	MADISON	36053	42-29-57N	75-51-10W
NIAGARA	NIAGARA	36063	43-16-04N	79-02-16W
CANTON	ST. LAWRENCE	36089	44-35-00N	75-10-00W
CALL MT	STEUBEN	36101	42-17-20N	70-20-40W
MT WASHINGTON	STEUBEN	36101	42-17-20N	70-20-40W
ITHACA	TOMPKINS	36109	42-26-00N	76-28-00W
GORE MOUNTAIN / JOHNSBURG	WARREN	36113	43-40-35N	74-02-08W
STUEBEN / YATES	YATES	36123	42-37-00N	77-06-00W
NORTH CAROLINA				
ANSON	ANSON	37007	34-59-00N	80-06-00W

JEFFERSON	ASHE	37009	36-25-00N	81-28-00W
YANCEYVILLE	CASWELL	37033	36-24-14N	79-20-11W
LENIOR	CALDWELL	37027	35-56-00N	81-34-00W
CHATHAM	CHATHAM	37037	35-42-53N	79-10-47W
POTTERS HILL	DUPLIN	37061	34-51-00N	77-39-00W
KINSTON	LENOIR	37107	35-15-45N	77-34-55W
WILLIAMSTON	MARTIN	37117	35-51-16N	77-03-21W
GREENVILLE	PITT	37147	35-34-00N	77-23-00W
HOFFMAN / ELLERBE	RICHMOND	37153	35-01-56N	79-32-52W
LUMBERTON	ROBESON	37155	34-38-40N	79-06-60W
MADISON	ROCKINGHAM	37157	36-23-07N	79-57-35W
MACON	WARREN	37185	36-26-19N	78-05-03W
ANSON	WAYNE	37191	35-22-00N	78-00-01W
NORTH DAKOTA				
HETTINGER	ADAMS	38001	46-00-05N	102-38-11W
WILLOW CITY / BOTTINEAU	BOTTINEAU	38009	48-36-16N	100-17-38W
LANGDON	CAVALIER	38019	49-45-08N	99-29-40W
SHEYENNE	EDDY	38027	47-49-25N	99-05-40W
STEELE	KIDDER	38043	46-20-40N	99-35-14W
NAPOLEON	LOGAN	38047	46-30-30N	99-46-15W
WISHEK	MCINTOSH	38051	39-05-01N	83-04-19W
UNDERWOOD	MCLEAN	38055	47-46-46N	101-11-03W
BELDEN / NEW TOWN	MOUNTRAIL	38061	48-09-05N	102-21-25W
CAVALIER	PEMBINA	38067	49-02-00N	98-44-06W
RUGBY	PIERCE	38069	48-22-08N	99-59-45W
ROLLA	ROLETTE	38079	48-51-28N	99-37-03W
GWINNER	SARGENT	38081	46-13-33N	97-39-44W
KENMARE	WARD	38101	48-08-41N	101-30-27W
OHIO				
ATHENS	ATHENS	39009	39-22-59N	82-00-57W
FINDLAY	HANCOCK	39063	41-05-58N	83-00-01W
BUTLER / MANSFIELD	RICHLAND	39139	40-45-26N	82-47-26W
OTWAY	SCIOTO	39145	38-47-41N	82-58-38W
CAREY	WYANDOT	39175	40-57-09N	83-22-57W
OKLAHOMA				
ATOKA	ATOKA	40005	34-23-09N	96-07-42W
BALKO	BEAVER	40007	36-36-42N	100-49-42W
GRIGGS	CIMARRON	40025	36-36-09N	102-07-11W
CHICKASHA	GRADY	40051	35-03-09N	97-56-11W
ALTUS	JACKSON	40065	34-38-17N	99-20-01W
PONCA CITY	KAY	40071	36-42-25N	97-05-07W
BROKEN BOW	MCCURTAIN	40089	34-01-33N	94-44-11W
DAVIS	MURRAY	40099	34-30-08N	97-07-34W
MUSKOGEE	MUSKOGEE	40101	35-44-52N	95-22-10W
STILLWATER	PAYNE	40119	36-06-56N	97-03-29W
BYNG / ADA	PONTOTOC	40123	34-51-40N	96-39-55W
ANTLERS	PUSMATAHA	40127	34-13-52N	95-37-12W
WEWOKA	SEMINOLE	40133	35-09-31N	96-29-53W
GUYMON	TEXAS	40139	36-40-58N	101-28-52W
BARTLESVILLE	WASHINGTON	40147	36-44-50N	95-58-50W
OREGON				

BAKER CITY	BAKER	41001	44-46-30N	117-50-00W
BENNETT BUTTE	CURRY	41015	42-26-27N	124-12-07W
CAPE BLANCO	CURRY	41015	42-26-27N	124-12-07W
JOHN DAY	GRANT	41023	44-24-58N	118-57-07W
UKIAH / BLACK MT	UMATILLA / UNION / GRANT	41023	45-08-06N	118-55-37W
BURNS	HARNEY	41025	43-35-11N	119-03-11W
LITTLE WALKER	KLAMATH	41035	42-49-30N	121-56-40W
LAKEVIEW	LAKE	41037	42-11-20N	120-20-41W
FLORENCE / REEDSPORT	LANE	41039	43-58-58N	124-05-55W
COLUMBIA GORGE	SHERMAN	41055	45-42-35N	121-31-19W
THE DALLES	WASCO	41065	45-35-41N	121-10-39W
FOSSIL / SNOWBOARD	WHEELER / GILLIAM	41069	44-43-50N	120-04-40W
PENNSYLVANIA				
ALTOONA	BLAIR	42013	40-50-56N	78-41-28W
CLARION	CLARION	42031	41-12-53N	79-23-08W
PUNXSUTAWNEY	JEFFERSON	42065	42-56-32N	78-58-17W
MT CARMEL	NORTHUMBERLAND	42097	40-53-40N	76-40-33W
DUTCHMAN HILL	POTTER	42105	41-45-02N	78-00-08W
WAYNE COUNTY	WAYNE	42127	41-39-01N	75-18-23W
PUERTO RICO				
CULEBRA	CULEBRA	72049	18-16-00N	65-13-00W
VIEQUES	VIEQUES	72147	18-43-53N	65-60-06W
SOUTH CAROLINA				
AIKEN / KITCHINGS MILL	AIKEN	45003	33-33-37N	81-43-11W
ALLENDALE	ALLENDALE	45005	32-57-02N	81-20-30W
BARNWELL	BARNWELL	45011	33-14-41N	81-21-32W
RUBY	CHESTERFIELD	45025	34-36-50N	80-07-04W
ANDREWS / GEORGETOWN	GEORGETOWN	45043	33-27-09N	79-33-40W
GREENWOOD	GREENWOOD	45047	34-11-43N	82-09-43W
JEFFERSON	LANCASTER	45057	34-46-00N	80-39-00W
WALHALLA	OCONEE	45073	34-45-53N	83-03-51W
ORANGEBURG	ORANGEBURG	45075	33-30-01N	80-31-30W
UNION	UNION	45087	34-43-22N	81-37-26W
ROCK HILL	YORK	45091	34-15-06N	81-15-19W
SOUTH DAKOTA				
PHILIP	HAAKON	46055	44-03-23N	101-64-09W
MILLER	HAND	46059	44-31-12N	98-59-16W
TRIPP	HUTCHINSON	46067	43-13-30N	97-57-59W
JACKSON (PINE RIDGE RES)	JACKSON	46071	43-41-49N	101-38-11W
FAITH	MEADE	46093	45-02-13N	102-02-29W
WHITE RIVER	MELLETTE	46095	43-34-02N	100-44-39W
PORCUPINE	SHANNON	46113	43-23-57N	102-32-12W
TODD (ROSEBUD RES)	TODD	46121	43-10-47N	100-43-44W
STANDING ROCK RES	ZIEBACH	46137	44-58-56N	101-40-10W
TENNESSEE				
BIG SANDY	BENTON	47005	36-14-60N	88-48-43W
FALL CREEK / FALLS SP	BLEDSOE	47007	35-42-53N	85-14-43W
LA FOLLETTE	CAMPBELL	47013	36-22-58N	84-07-12W
MCKENZIE / VALE	CARROLL	47017	36-14-60N	88-38-33W
PARSONS / WAYNESBORO	DECATUR / WAYNE	47039	35-13-16N	87-22-26W
WINCHESTER / SEWANEE	FRANKLIN	47051	35-11-09N	86-06-44W

SAVANNAH	HARDIN	47071	35-13-57N	88-14-48W
CENTERVILLE	HICKMAN	47081	35-46-44N	87-28-01W
ETOWAH	MCMINN	47107	35-19-24N	84-31-30W
LAFAYETTE	MACON	47111	36-31-16N	86-01-35W
LINDEN / LOBELVILLE	PERRY	47135	35-37-02N	87-50-22W
POLK	POLK	47139	35-28-33N	87-26-42W
PUTNAM	PUTNAM	47141	36-11-09N	85-42-58W
SEQUATCHIE	SEQUATCHIE	47153	35-13-58N	85-47-26W
CARTHAGE	SMITH	47159	36-12-50N	85-51-40W
CYPRESS INN	WAYNE	47181	35-00-43N	87-49-00W
TEXAS				
PALESTINE	ANDERSON	48001	31-45-43N	95-37-50W
BEEVILLE	BEE	48025	28-24-02N	97-44-53W
ALPINE / MARFA / FORT DAVIS	BREWSTER / PRESIDIO / JEFF DAVIS	48043	29-11-10N	103-24-45W
BIG BEND NP	BREWSTER	48043	29-11-10N	103-24-45W
FALFURRIAS	BROOKS	48047	27-23-22N	98-12-42W
BROWNWOOD	BROWN	48049	31-42-33N	98-59-27W
DIMMITT	CASTRO	48069	34-33-03N	102-18-41W
CHILDRESS / PADUCAH	CHILDRESS	48075	34-25-35N	100-12-13W
COLUMBUS	COLORADO	48089	29-42-23N	96-32-22W
DENTON / GAINSVILLE	COOKE	48097	32-15-31N	99-32-21W
VAN HORN	CULBERTSON	48109	31-03-50N	104-27-23W
DALHART	DALLAM / HARTLEY	48111	36-06-33N	102-51-42W
HEREFORD	DEAF SMITH	48117	34-56-20N	102-35-09W
SPUR	DICKENS	48125	33-28-35N	100-51-19W
BENAVIDES	DUVAL	48131	27-35-55N	98-24-28W
EASTLAND / CISCO	EASTLAND	48133	32-24-50N	98-49-00W
BARKSDALE	EDWARDS	48137	29-57-16N	100-05-34W
EL PASO (SPANISH)	EL PASO	48141	31-46-40N	106-09-26W
THALIA	FOARD	48155	33-55-57N	99-43-38W
FAIRFIELD	FREESTONE	48161	31-43-28N	96-09-54W
DILLEY	FRIO	48163	28-40-02N	99-10-13W
SEMINOLE	GAINES	48165	32-31-11N	102-34-58W
MCLEAN	GRAY	48179	35-22-58N	100-34-47W
PLAINVIEW	HALE	48189	34-11-05N	101-42-23W
HICO	HAMILTON	48193	31-44-05N	96-08-07W
HASKELL	HASKELL	48207	33-09-27N	99-44-00W
HILLSBORO	HILL	48217	32-00-39N	97-07-47W
CROCKETTT	HOUSTON	48225	33-08-18N	96-06-38W
SIERRA BLANCA	HUDSPETH	48229	31-10-28N	105-21-24W
BORGER	HUTCHINSON	48233	35-38-35N	101-23-45W
KIRBYVILLE	JASPER	48241	30-43-01N	94-09-01W
HEBBRONVILLE	JIM HOGG	48247	27-18-23N	98-40-41W
ARMSTRONG	KENEDY	48261	26-49-40N	97-42-50W
RIVIERA / KINGSVILLE	KLEBERG	48273	27-17-54N	97-48-53W
LAMPASAS	LAMPASAS	48281	31-03-49N	98-10-53W
COTULLA	LASALLE	48283	28-26-12N	96-14-05W
CENTERVILLE	LEON	48289	31-23-10N	95-56-10W
LIBERTY	LIBERTY	48291	30-11-05N	94-50-01W
THREE RIVERS / GEORGE WEST	LIVE OAK	48297	28-27-36N	98-10-56W
EAGLE PASS	MAVERICK	48323	28-42-32N	100-29-57W

D'HANIS	MEDINA	48325	29-19-49N	99-16-46W
MENARD	MENARD	48327	30-55-03N	99-47-10W
CONROE	MONTGOMERY	48339	30-14-50N	95-27-36W
TOLEDO BEND	NEWTON	48351	30-45-60N	93-42-40W
SWEETWATER	NOLAN	48353	32-16-42N	100-14-56W
PERRYTON	OCHILTREE	48357	36-24-00N	100-48-08W
MINERAL WELLS	PALO PINTO	48363	32-48-30N	98-06-45W
FRIONA	PARMER	48369	34-38-30N	102-43-25W
FT. STOCKTON / BAKERSFIELD	PECOS	48371	30-53-38N	102-52-44W
ONALASKA	POLK	48373	30-50-59N	95-06-29W
MARFA / ALPINE	PRESIDIO / BREWSTER	48377	30-18-28N	104-01-07W
BIG LAKE	REAGAN	48383	31-22-30N	100-31-00W
LEAKEY	REAL	48385	29-44-59N	99-45-53W
PECOS	REEVES	48389	31-25-22N	103-29-34W
COLDSPRING	SAN JACINTO	48407	30-35-32N	95-07-45W
TIMPSON / CENTER	SHELBY	48419	31-54-13N	94-23-42W
STRATFORD	SHERMAN	48421	36-20-10N	102-04-18W
RIO GRANDE CITY	STARR	48427	26-36-09N	98-44-10W
BRECKENRIDGE	STEPHENS	48429	32-45-20N	98-54-07W
SUTTON	SUTTON	48435	30-31-10N	100-34-30W
SANDERSON	TERRELL	48443	30-08-32N	102-23-37W
BROWNFIELD	TERRY	48445	33-10-52N	102-16-26W
THROCKMORTON	THROCKMORTON	48447	33-11-09N	99-13-20W
MOUNT PLEASANT	TITUS	48449	32-23-49N	99-58-17W
WOODVILLE	TYLER	48457	30-46-30N	94-24-55W
UVALDE	UVALDE	48463	32-30-02N	94-44-25W
CANTON / WILLS POINT	VAN ZANDT	48467	32-31-30N	99-51-00W
SHAMROCK	WHEELER	48483	35-12-51N	100-14-55W
RAYMONDVILLE	WILLACY	48489	26-31-20N	97-57-30W
GRAHAM	YOUNG	48503	3310-49N	98-40-32W
FALCON LAKE	ZAPATA	48505	26-52-17N	99-15-19W
CRYSTAL CITY	ZAVALA	48507	28-54-30N	99-43-08W
UTAH				
PRICE	CARBON	49007	39-29-12N	110-34-00W
CASTLE DALE	EMERY	49015	39-00-09N	110-38-40W
GREEN RIVER	EMERY / GRAND	49015	39-06-36N	111-09-06W
BRYCE CANYON	GARFIELD	49017	37-37-42N	112-10-01W
MOAB	GRAND	49019	38-34-24N	109-32-57W
NEPHI	JUAB	49023	39-42-37N	111-50-08W
CANYONLANDS NP	SAN JUAN	49037	38-10-00N	109-59-00W
MONTICELLO	SAN JUAN	49037	37-54-54N	106-34-12W
MANTI	SANPETE	49039	39-16-06N	111-38-10W
CAPITAL REEF NP	SEVIER	49041	38-45-50N	111-54-50W
RICHFIELD	SEVIER	49041	38-46-21N	112-05-00W
SUMMIT COUNTY	SUMMIT	49043	40-53-01N	110-57-57W
FLAMING GORGE	UINTAH	49047	40-57-02N	109-35-09W
WASATCH COUNTY	WASATCH	49051	40-19-58N	111-09-32W
ZION NP	WASHINGTON	49053	37-15-03N	112-57-20W
VERMONT				
BURKE / MT. BURKE	CALEDONIA	50005	44-28-06N	72-04-40W
CASTLETON / GRANDPA KNOB	RUTLAND	50021	43-39-28N	73-05-43W

GREEN MOUNTAINS	RUTLAND	50021	42-39-25N	72-37-30W
VIRGIN ISLANDS				
ST. CROIX	ST. CROIX	78010	17-43-08N	64-46-30W
ST. THOMAS	ST. THOMAS	78030	18-21-19N	64-56-13W
VIRGINIA				
ONLEY / ACCOMAC	ACCOMACK	51001	37-41-27N	75-42-59W
CHARLOTTESVILLE	ALBEMARLE	51003	38-01-45N	78-28-37W
CLIFTON FORGE	ALLEGANY	51005	37-45-00N	80-14-00W
BOWLING GREEN	CAROLINE	51033	38-03-00N	77-21-00W
EMPORIA	EMPORIA CITY	51595	36-41-09N	77-32-34W
HALIFAX / SOUTH BOSTON	HALIFAX	51083	36-45-57N	78-55-43W
SOUTH HILL	MECKLENBERG	51117	36-38-30N	78-12-40W
ROCKBRIDGE	ROCKBRIDGE	51163	37-48-54N	79-24-33W
TAZEWELL	TAZEWELL	51185	37-08-00N	81-33-00W
WISE	WISE	51195	37-00-01N	82-34-40W
SAND MOUNTAIN	WYTHE	51197	36-56-54N	81-05-06W
WASHINGTON				
LAKE CHELAN / METHOW VALLEY	CHELAN / OKANOGAN	53007	47-50-04N	120-00-41W
OLYMPIC NATIONAL PARK	CLALLAM	53009	47-58-35N	123-41-13W
DAYTON	COLUMBIA	53013	46-50-30N	117-38-30W
POMEROY	GARFIELD	53023	46-28-30N	117-36-06W
MOSES LAKE / EPHRATA	GRANT	53025	47-07-49N	119-16-37W
N. CENTRAL COAST	GRAYS HARBOR / PACIFIC	53027	46-31-40N	123-40-50W
STEVENS PASS	KING	53033	47-26-00N	121-48-40W
CLE ELUM SHY MEAD	KITTITAS	53037	47-08-50N	120-37-01W
GOLDENDALE	KLICKITAT	53039	45-24-20N	120-12-40W
MOUNT RANIER	PIERCE	53053	46-51-10N	121-45-31W
MT RAINIER NP	PIERCE / LEWIS	53053	47-26-00N	121-48-40W
SKAGIT VALLEY	SKAGIT	53057	48-23-01N	122-21-42W
STEVENS	STEVENS	53065	48-23-49N	117-51-10W
BLAINE AREA	WHATCOM	53073	48-48-40N	121-56-70
NACHES	WAKIMA	53077	46-20-30N	120-52-50W
WEST VIRGINIA				
GREG'S KNOB	PRESTON	54077	39-27-40N	79-38-10W
HAINES KNOB	RANDOLPH	54083	38-36-30N	79-59-50W
BACKBONE MOUNTAIN	TUCKER	54093	39-09-60N	79-35-30W
WISCONSIN				
ASHLAND	ASHLAND	55003	46-35-33N	90-53-01W
NEILLSVILLE	CLARK	55019	44-33-36N	90-35-46W
KENOSHA / RACINE	KENOSHA	55059	42-35-00N	87-59-50W
WAUSAUKEE	MARINETTE	55075	45-22-15N	87-57-08W
RHINELANDER	ONEIDA	55085	45-38-12N	89-24-43W
GILMAN	TAYLOR	55119	45-10-00N	90-48-27W
SHELL LAKE	WASHBURN	55129	45-50-00N	91-55-47W
MANAWA / OGDENSBURG	WAUPACA	55135	44-28-30N	89-01-60W
WYOMING				
GREY BULL	BIGHORN	56003	45-04-30N	106-01-00W
MOORCROFT / GILLETTE	CROOK / CAMPBELL	56011	44-15-48N	104-56-59W
AFTON	LINCOLN	56023	42-25-08N	110-25-04W
LUSK / TORRINGTON	NIOBRARA / GOSHEN	56027	42-45-45N	104-27-06W
CODY	PARK	56029	44-31-35N	109-03-21W
YELLOWSTONE NP	PARK	56029	44-36-07N	109-47-02W
GLENDO / WINDOVER	PLATTE	56031	42-30-10N	105-01-32W
SUBLETTE	SUBLETTE	56035	42-50-01N	109-33-00W
JACKSON / TETON	TETON	56039	43-28-48N	110-45-42W
WORLAND	WASHAKIE	56043	44-01-01N	107-57-17W

[FR Doc. 01–25947 Filed 10–15–01; 8:45 am]
BILLING CODE 3410–15–C

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Decennial Census Advisory Committee

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to he Federal Advisory Committee Act (5 U.S.C., App. 2, Sec. 10(a)(b)), the Bureau of the Census (Census Bureau) is giving notice of a meeting of the Decennial Census Advisory Committee. The Committee will address issues related to the 2010 census effort, including the American Community Survey and other related decennial programs. They will also discuss Census 2000 evaluations. Last minute changes to the schedule are possible, which could prevent us from giving advance notification.

DATES: November 5–6, 2001. The November 5 meeting will begin at 8 a.m. and end at approximately 5:45 p.m. The November 6 meeting will begin at 8:30 a.m. and end at approximately 12:15 p.m.

ADDRESSES: The meeting will be held at the Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, Virginia 22311.

FOR FURTHER INFORMATION CONTACT: Ms. Jeri Green, Committee Liaison Officer, U.S. Census Bureau, Commerce, Room 3627, Federal Building 3, Washington, DC 20233, telephone (301) 457–2075, TDD (301) 457–2540.

SUPPLEMENTARY INFORMATION: The Decennial Census Advisory Committee is composed of a Chair, Vice-Chair, and up to 40 member organizations, all appointed by the Secretary of Commerce. The Committee considers the goals of the decennial census and users' needs for information provided by the decennial census. The committee provides an outside user perspective about how research and design plans for the 2010 decennial census, and the development of the American Community Survey and other related programs, will realize those goals and satisfy those needs. The members of the Advisory Committee will draw on their experience with Census 2000 planning and operational processes, results of research studies, test censuses, and results of the Census 2000 evaluation program to provide input on the design and related operations of the 2010 decennial census, the American Community Survey, and other related programs.

A brief period will be set aside at the meeting for public comment. However, individuals with extensive statements for the record must submit them in writing to the Census Bureau Committee Liaison Officer named above at least three working days prior to the meeting. Seating is available to the public on a first-come, first-served basis.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer.

Dated: October 11, 2001.

Kathleen B. Cooper,

Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 01–25984 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–07–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 41–2001]

Foreign-Trade Zone 210—Port Huron, MI; Request for Manufacturing Authority, Cross Hüller-North America (Machine Tools)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Economic Development Alliance of St. Clair County, grantee of FTZ 210, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Cross Hüller-North America (Cross Hüller) (a subsidiary of Thyssen Krupp Industries AG, of Germany), to manufacture metal working machine tools under FTZ procedures within FTZ 210. It was formally filed on October 5, 2001.

Cross Hüller operates a facility (144,000 sq.ft./12 acres/110 employees) within FTZ 210–Site 2 located at 2555 20th Street, Port Huron Industrial Park, in Port Huron, Michigan. The plant is used to produce metal-working equipment and distribute foreign-made equipment, including modular transfer machines, computer-controlled machining centers (drilling, boring, broaching, milling), lathes, and flexible manufacturing systems for the U.S. market and export. The proposed manufacturing activity would involve the use of foreign-sourced components (on average, about 45% of finished equipment value), including: Hydraulic/gear oil, industrial paint and anti-rust coatings, caulking, antifreeze, pneumatic hoses and pipes, ID tags, shipping caps, skid rails and pallets, rulon, seals/rings, gaskets, belts, chain, brake rotors, couplings/fittings, fasteners, keys, rollers, brackets, pins, rings, cables, cylinders, pumps and related parts, electric motors, heat exchangers, filters, monitors, cutting tools (face/end mills, turning, drills, boring bars, deburing) guarding interlocks and keys, taps, fiber optic adapters, parts of machinery, castings, lead weights/tubes/pipes, zinc tubes, copper wire and tubes, elbows/fittings, bushings, spindles, gears and gear boxes, sprockets, pulleys, idler assemblies, inductors, electronic control units, air-conditioners and compressors, fans/blowers, switches, spray guns, coolant pumps, batteries, lamps, fuses, circuit breakers, relays, transformers, lamps, switches, CPU/printed circuit/memory boards, integrated circuits, EPROM, numerical process controllers, automatic data processing equipment, linear amplifiers, conduits, gauges, paint pads/brushes, sensors, frequency inverter/converters, pulse coders, encoder, ball screws, and plasma displays, CRT monitors (duty rates: free—10%).

FTZ procedures would exempt Cross Hüller from Customs duty payments on the foreign components used in production for export to non-NAFTA countries. On shipments for U.S. consumption and to NAFTA markets, the company would be able to elect the finished metal-working equipment duty rates (3.3–4.4%) for the foreign components listed above that have higher individual rates. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing date for their receipt is December 17, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period December 31, 2001.

A copy of the application will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, Franklin Court Building—Suite 4100W, U.S. Department of Commerce, 1099 14th Street, NW, Washington, DC 20005.

Dated: October 5, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–25976 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–828]

Stainless Steel Wire Rod From Taiwan; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 12, 2001, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on stainless steel wire rod (SSWR) from Taiwan (66 FR 31613). This review covers one manufacturer/exporter of the subject merchandise. The period of review (POR) is September 1, 1999, through August 31, 2000.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have not made any changes in the margin calculations presented in the preliminary results of review. The final weighted-average dumping margins for the company under review is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: October 15, 2001.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur or Karine Gziryan, Office of 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; telephone (202) 482–5346 and (202) 482–4081, respectively.

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).

Background

This review covers one manufacturer/exporter, Walsin Lihwa Corporation (Walsin). The POR is September 1, 1999, through August 31, 2000.

On June 12, 2001, the Department published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on stainless steel wire rod (SSWR) from Taiwan. *See Stainless Steel Wire Rod from Taiwan; Preliminary Results of Antidumping Duty Administrative Review,* 66 FR 31613 (June 12, 2001) (*Preliminary Results*).

We invited parties to comment on our preliminary results of review. On July 17, 2001, the respondent, Walsin, submitted a case brief. The petitioners (*i.e.,* Carpenter Technology Corp., Empire Specialty Steel, and the United Steel Workers of America, AFL–CIO/CLC), submitted a rebuttal brief on July 24, 2001. At the request of Walsin, the respondent, we held a public hearing on August 21, 2001.

The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of the Order

For purposes of this review, SSWR comprises products that are hot-rolled or hot-rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot-rolling or hot-rolling annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar. The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire-drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches in diameter.

Two stainless steel grades are excluded from the scope of the review. SF20T and K–M35FL are excluded. The chemical makeup for the excluded grades is as follows:

SF20T

Carbon 0.05 max
Manganese 2.00 max
Phosphorous 0.05 max
Sulfur 0.15 max
Silicon 1.00 max
Chromium 19.00/21.00
Molybdenum 1.50/2.50
Lead-added (0.10/0.30)
Tellurium-added (0.03 min)

K–M35FL

Carbon 0.015 max
Silicon 0.70/1.00
Manganese 0.40 max
Nickel 0.30 max
Chromium 12.50/14.00
Lead 0.10/0.30
Phosphorous 0.04 max
Sulfur 0.03 max
Aluminum 0.20/0.35

The products subject to this review are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this review is dispositive.

Duty Absorption

On November 14, 2000, the petitioners requested that the Department determine whether antidumping duties had been absorbed during the POR by the respondent. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. This review was initiated two years after the publication of the order. However, because Walsin did not sell to unaffiliated customers in the United States through an importer that is affiliated, we will not make a duty absorption determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Act.[1]

Successorship

In the *Preliminary Results*, we preliminarily determined that Walsin is the successor to Walsin CarTech Specialty Steel Corporation (Walsin CarTech) for purposes of this proceeding, and for the application of the antidumping law. *See Preliminary Results*, 66 FR at 31614. Because we

[1] We note that we inadvertently overlooked the petitioners' November 14, 2000 allegation for inclusion in the *Preliminary Results.* However, no party has alleged in this proceeding that Walsin sold to unaffiliated customers in the United States through an affiliated importer. We therefore believe that making our decision at this point in the proceeding to not make a duty absorption determination will not prejudice any party.

received no comments on this issue, for the reasons stated in the *Preliminary Results*, and based on the facts on the record, we find Walsin to be the successor to Walsin CarTech for purposes of this proceeding, and for the application of the antidumping law.

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 ''Issues and Decision Memorandum'' (Decision Memorandum), dated October 10, 2001, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this review and the corresponding recommendations in the public Decision 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 Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that the following weighted-average percentage margin exists for the period September 1, 1999, through August 31, 2000:

Manufacturer/exporter	Margin (percent)
Walsin Lihwa Corporation	4.75

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by the quantity sold used to calculate those margins for each importer.[2] Where the resulting importer-specific per-unit duty assessment rate is above de minimis, we will direct Customs to assess that rate uniformly on each of that importer's entries during the review period.

Since we have determined that Walsin is the successor to Walsin CarTech for purposes of applying the antidumping duty law, we will further instruct the U.S. Customs Service to assign Walsin CarTech's antidumping company identification number to Walsin.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of SSWR from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed firm will be the rate shown above; (2) for previously reviewed or investigated companies not listed above (except for Walsin CarTech [3]), the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 8.29 percent. This rate is the ''All Others'' rate from the LTFV investigation.

These cash deposit requirements, when imposed. shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding APOs

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 written 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.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i) (1) of the Act.

Dated: October 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memo

1. Interest Expense Calculation: Use of Consolidated Financial Statement
2. Interest Expense Calculation: Inclusion of Interest Expense Related to Investments
3. Interest Expense Calculation: Offsetting Total Interest Expenses with Capital Gains

[FR Doc. 01–25975 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–DS–P

[2] In the *Preliminary Results*, we incorrectly stated that we calculated each importers' duty assessment rate by dividing the total dumping margins for the reviewed sales by their total entered value for each importer, while in fact, we calculated an assessment rate using the total quantity sold in the denominator of this calculation because Walsin did not report the entered value of its sales.

[3] Since we have determined that Walsin is the successor to Walsin CarTech for purposes of applying the antidumping duty law, Walsin CarTech will no longer have its own company-specific cash deposit rate.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–337–807]

Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: IQF Red Raspberries From Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') preliminarily determines that countervailable subsidies are not being provided to producers or exporters of individually quick frozen (''IQF'') red raspberries in Chile.

EFFECTIVE DATE: October 16, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Matney or Andrew Covington, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1778 and (202) 482–3534, respectively.

Petitioners

The petition in this investigation was filed by the IQF Red Raspberries Fair Trade Committee (''Committee'') and its members (collectively referred to hereinafter as ''the petitioners''). The Committee is an ad hoc association of growers and processors of IQF red raspberries. All of the members of the Committee are producers of IQF red raspberries.

Case History

On June 28, 2001 the Department published in the **Federal Register** the notice initiating this investigation (*Initiation of Countervailing Duty Investigation: IQF Red Raspberries from Chile*, 66 FR 34423, June 28, 2001) (''*Initiation Notice*''). Since the Initiation Notice, the following events have occurred.

On July 9, 2001, we issued a countervailing duty questionnaire to the Government of Chile (''GOC''). Due to the large number of producers and exporters of IQF red raspberries in Chile, we decided to limit the number of responding companies to the three producers/exporters with the largest volumes of exports to the United States during the period of investigation (see July 5, 2001, memorandum entitled ''Respondent Selection''). We issued countervailing duty questionnaires to these three companies, Comercial Fruticola S.A. (''Comfrut''); Exportadora Frucol Ltda. (''Frucol''); and Fruticola Olmue S.A. (''Olmue''), also on July 9.

On August 3, 2001, the petitioners requested that the Department extend the deadline for the preliminary determination in this investigation. Pursuant to section 351.205(f)(1) of our regulations, the Department extended this deadline until October 9, 2001 (66 FR 42994, August 16, 2001).

The Department received the GOC and company questionnaire responses on August 20, 2001. The Department issued supplemental questionnaires to the GOC and the three companies on September 17, 2001, and received responses to those questionnaires on September 24, 2001.

On October 3, 2001, we received a request from the petitioners, pursuant to section 351.210(b)(4)(i) of our regulations, to postpone the final determination in this investigation to coincide with the final determination in the companion antidumping duty investigation of IQF red raspberries from Chile. Accordingly, we are aligning the final determinations in these investigations.

Scope of Investigation

The products covered by this petition are imports of IQF red raspberries, whole or broken, from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (e.g., organic or not), the size of the container in which packed, or the method of packing. The scope of the petition excludes fresh red raspberries and block frozen red raspberries (i.e., puree, straight pack, juice stock, and juice concentrate).

Comment on Scope

In the *Initiation Notice*, we invited comments on the scope of this proceeding (*see* 66 FR at 34423). In the companion antidumping duty investigation, parties filed comments regarding inclusion in the scope of so-called ''dirty crumbles.'' Dirty crumbles are broken IQF red raspberries which have a high level of defects, as well as stems, leaves, and mold.

In order to maintain a consistent scope in the antidumping and countervailing duty proceedings, we have placed those comments and our decision memorandum in the file of this proceeding (*see* September 26, 2001 Memorandum to the File re: Scope). We determined that dirty crumbles are within the scope of the proceedings on IQF red raspberries from Chile.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the ''Act''). All citations to our regulations refer to 19 CFR part 351 (April 2001).

Injury Test

Because Chile is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Chile materially injure, or threaten material injury to, a U.S. industry. On July 25, 2001, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Chile of the subject merchandise (66 FR 38740, July 25, 2001).

Period of Investigation (''POI'')

The period for which we are measuring subsidies is calendar year 2000.

Subsidies Valuation Information

Benchmarks for Loans: To calculate the countervailable benefit from loans, we have used U.S. dollar borrowing rates in Chile, as submitted by the GOC. We have used dollar rates, in accordance with section 351.505(a)(2)(i) of our regulations, because the loans and interest in question were denominated in U.S. dollars.

Allocation Period: In accordance with section 351.524(d)(2)(i) of our regulations, we have used a 12-year allocation period based on the Internal Revenue Service's 1977 Class Life Depreciation Range System. None of the responding companies disputed this allocation period.

Attribution of Subsidies: Section 351.525(a)(6) of our regulations directs that the Department will attribute subsidies received by certain affiliated companies to the combined sales of those companies. Based on our review of the responses, we find that ''cross ownership'' exists with respect to certain companies, as described below, and have attributed subsidies accordingly.

Comfrut: Comfrut has responded on behalf of itself and two affiliated companies, Frutas y Hortalizas Del Sur (''Frusur'') and Agricosa S.A. (''Agricosa''). Based on the proprietary details of the relationships between these companies, we preliminarily determine that cross ownership exists with respect to these companies and that subsidies received by the three companies are properly attributed to the combined sales of the three companies. We further determine that cross ownership exists with respect to certain other companies affiliated with one or more of these companies and that those companies did not receive subsidies that were transferred to Comfrut, Frusur, or Agricosa. For a full discussion of these issues, *see* October 9, 2001 Proprietary Memorandum to the File, entitled ''Attribution of Subsidies in CVD Investigation of IQF Red Raspberries from Chile.''

Frucol: Frucol has responded on behalf of itself and Sociedad Agricola Machicura (''Agricola Machicura''). Based on the proprietary details of the relationships between these companies, we preliminarily determine that cross ownership exists with respect to these companies and that subsidies received by both are properly attributed to the combined sales of the two companies. We further determine that cross ownership exists with respect to certain other companies affiliated with Frucol and/or Agricola Machicura, and that those companies did not receive subsidies that were transferred to Frucol or Agricola Machicura. For a full discussion of these issues, *see* October 9, 2001 Proprietary Memorandum to the File, entitled ''Attribution of Subsidies in CVD Investigation of IQF Red Raspberries from Chile.''

Olmue: Olmue has responded on behalf of itself and Tecnofrio Cautin S.A. (''Tecnofrio Cautin''). Based on the proprietary details of the relationships between these companies, we preliminarily determine that cross ownership exists with respect to these companies and that subsidies received by both are properly attributed to the

combined sales of the two companies. However, Olmue reported that Tecnofrio Cautin did not operate during the POI and did not use any of the programs during the POI. Therefore, we have based our calculations only on Olmue's subsidies and sales. We further determine that cross ownership exists with respect to certain other companies affiliated with Olmue and Tecnofrio Cautin, and that those companies did not receive subsidies that were transferred to Olmue or Tecnofrio Cautin. For a full discussion of these issues, *see* October 9, 2001 Proprietary Memorandum to the File, entitled ''Attribution of Subsidies in CVD Investigation of IQF Red Raspberries from Chile.''

Analysis of Programs: Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Program Preliminarily Determined To Be Countervailable

Law No. 18,634 (Deferrals, Credits and Waivers for Capital Goods Purchases)

Law Number 18,634 of August 5, 1987, established a three-pronged program related to purchases of capital equipment and subsequent export of products produced with that equipment. Under the first prong, referred to as the ''duty deferral prong,'' both exporters and non-exporters are allowed to defer paying duties on designated capital goods that are imported. During the deferral period, the amount of duties owed is treated as a loan on which the producer is required to pay interest. Under the second prong of the program, referred to as the ''fiscal credit prong,'' both exporters and non-exporters can apply for a fiscal credit when they purchase the same designated capital goods from domestic suppliers. The fiscal credit also functions as a loan on which the producer is required to pay interest.

Under the third prong of the program, referred to as ''the waiver prong,'' the deferred duties and fiscal credits, and the accrued interest can be waived. Eligibility for the waivers and the amounts of the waivers are dependent upon exportation. In November 1998, the waiver portion of Law 18,634 was eliminated. However, producers that had applied to receive benefits under Law 18,634 prior to that time continue to be eligible for waivers based on those applications.

In *Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Determination: Fresh Atlantic Salmon from Chile* (62 FR 61803, November 19, 1997) (''*Salmon—Preliminary Determination*''), we analyzed the different prongs of Law 18,634 separately. We determined that the duty deferral prong was not specific within the meaning of section 771(5A) and, therefore, did not confer a countervailable benefit. Regarding the second prong, the fiscal credit for purchases of capital equipment produced in Chile, we found specificity and a countervailable subsidy. Our specificity determination was based on the requirement that the producer purchase the capital equipment from domestic sources (*see* section 771(5A)(C) of the Act). Finally, we found that the waiver prong of Law 18,634 provided a countervailable subsidy. The waivers were specific by virtue of being contingent upon exportation (*see* section 771(5A)(B) of the Act), and the benefit was a grant in the amount of the waiver.

In *Final Negative Countervailing Duty Determination: Fresh Atlantic Salmon from Chile* (63 FR 31437, June 9, 1998) (''*Salmon—Final Determination*''), we applied a different analysis to Law 18,634. Instead of analyzing the individual prongs, we examined the program in its entirety.

We determined that all benefits provided under Law 18,634, when viewed this way, constituted export subsidies because ''their overarching purpose ... is to promote exports'' (63 FR at 31442).

For purposes of the preliminary determination in this proceeding, we are following the analytical framework used in *Salmon—Preliminary Determination*. This framework is most consistent with section 351.514(a) of our regulations, which states:

> * * * the Secretary will consider a subsidy to be contingent upon export performance if the provision of the subsidy is, in law or in fact, tied to actual or anticipated exportation or export earnings, alone or as one of two or more conditions.

Because the subsidies provided under the waiver prong differ from the subsidies provided under the other prongs of Law 18,634 and the eligibility criteria vary under the different prongs, we preliminarily determine that the duty deferrals and fiscal credits are not contingent upon exportation or anticipated exportation. We note, however, that even if we were to apply the analytical framework used in *Salmon—Final Determination*, it would not change our negative preliminary determination in this proceeding.

Duty Deferrals: A Chilean producer who imports capital equipment designated in Decree No. 506 (June 17, 1999) can apply to the Chilean Customs Service for a duty deferral. Payment of the deferred amount is staged, with equal installments due in the third, fifth and seventh years after importation. In addition to paying the deferred amount, the producer also pays interest at a rate set by the Central Bank of Chile.

We preliminarily determine that the duty deferral prong of Law 18,634 is not specific within the meaning of section 771(5)(A) of the Act. Duty deferrals are contingent neither upon exportation nor use of domestic goods as a matter of law, and Law 18,634 does not limit the industries in Chile that can receive duty deferrals. Moreover, information submitted by the GOC indicates that duty deferrals are used by a wide variety of industries in Chile, and that the industry producing the subject merchandise does not receive a predominant or disproportionate share of the deferrals. Therefore, we preliminarily determine that the duty deferral prong under Law 18,634 does not confer a countervailable benefit.

Fiscal Credits: Under this prong, companies purchasing domestically produced capital equipment designated in Decree No. 506 can borrow up to 73 percent of the amount of customs duties that would have been paid on the capital goods if they had been imported. The repayment of this fiscal credit, plus interest, is made according to the same schedule described above for duty deferrals.

We preliminarily determine that the fiscal credit prong of Law 18,634 is specific within the meaning of section 771(5A)(C) of the Act because receipt of the credit is contingent upon the use of domestic goods. We also preliminarily determine that the fiscal credit is a direct transfer of funds (*see* section 771(5)(D)(i) of the Act) that provides a benefit in the amount of the difference between the interest the company pays on the fiscal credit and the interest the company would pay for a comparable commercial loan (*see* section 771(5)(E)(ii) of the Act). Therefore, we preliminarily determine that the fiscal credit prong of Law 18,634 confers a countervailable subsidy.

Olmue had fiscal credits outstanding during the POI.

To calculate the benefit of these credits to Olmue, we treated the fiscal credits outstanding during the POI as long-term loans taken out at the time of importation. We used the benchmark rate described above in the ''*Benchmarks for Loans*'' section as the measure of what the recipient would have paid for comparable commercial loans.

Applying the loan methodology described in section 351.505(c)(2) of our regulations, we calculated the interest savings received by Olmue in the POI. With one exception, the capital equipment for which Olmue received fiscal credits was used for all products produced by the company. Thus, we have divided the interest savings from these fiscal credits by Olmue's total sales. The one exception involved capital equipment used exclusively to produce non-subject merchandise. Therefore, we have not included the interest savings on this fiscal credit in the calculation of Olmue's benefit.

On this basis, we preliminarily determine that the subsidy under the fiscal credit prong of Law 18,634 is 0.00 percent ad valorem for Olmue.

The GOC stated in its response that the fiscal credit prong of Law 18,634 is not an import substitution program. Instead, according to the GOC, this prong of the program is intended to encourage capital investment in Chile and to avoid a preference for imported capital goods resulting from the duty deferral prong.

We will consider this claim further for our final determination, but note that we addressed a similar claim by the GOC in *Salmon—Final Determination* (66 FR at 31442). In the salmon case, the GOC argued that the Department should look at the duty deferral and fiscal credit prongs of Law 18,634 as a single program. We disagreed, stating that to do so would amount to ''picking and choosing which elements of the law should be combined in order to achieve the result that the loans to purchasers of domestic equipment are not specific'' (*see id.*).

Waivers: Chilean producers that received duty deferrals and fiscal credits under Law 18,634 can have the duties and credits waived if the producers export merchandise manufactured with the capital equipment covered by the deferral or credit. Comfrut and Frucol received waivers during the POI.

We preliminarily determine that the waiver prong of Law 18,634 is specific within the meaning of section 771(5A)(B) of the Act because receipt of the waivers is contingent upon exportation. We also preliminarily determine that the waiver is a direct transfer of funds (*see* section 771(5)(D)(i) of the Act) that provides a benefit in the amount of the duty or fiscal credit waived (*see* section 351.508(a) of our regulations). Therefore, we preliminarily determine that the waiver prong of Law 18,634 confers a countervailable subsidy.

Consistent with *Salmon—Preliminary Determination* (unchanged in final), we have treated the waivers as recurring benefits (*see* 62 FR at 61805, and section 351.524(c)(1) of our regulations). Consequently, we have summed the waivers received in the POI and divided these by the appropriate export sales (all exports, all frozen exports, or raspberry exports) for both recipients. For certain waivers received by Comfrut, we lacked the correct sales information. We intend to request this information for our final determination.

On this basis, we preliminarily determine that the subsidy under the waiver prong of Law 18,634 is 0.17 percent ad valorem for Comfrut and 0.64 percent ad valorem for Frucol.

II. Program Preliminarily Determined Not To Confer a Subsidy During the POI

Fund for the Promotion of Agricultural Exports/ProChile Export Promotion Assistance

Chile's Fund for the Promotion of Agricultural Exports (FPEA) co-finances up to 50 percent of the cost of export promotion activities. Companies can seek assistance from the FPEA for conducting market surveys and for projects that help the companies enter and remain in particular markets. The types of expenses that the FPEA will co-finance include: advertising and promotion, office space rental, studies, and operating expenses at trade fairs.

Between 1995 and 1998, the FPEA operated under the direction of a committee including officials from the Ministry of Agriculture, ProChile (Chile's Export Promotion Bureau), and agricultural associations. Day-to-day operations were centralized at ProChile.

Beginning in 1999, the National Contest for Export Promotion (''Contest'') was developed in order to allocate export promotion resources as effectively as possible. The Contest is open to persons exporting (or seeking to export) agricultural products, whether fresh, frozen or at different stages of processing. Once the plans are submitted, they are reviewed and ranked by ProChile, and the best are accepted.

None of the responding companies participated directly in export promotion programs co-financed by the FPEA through ProChile. However, two frozen food trade associations which include the responding companies among their members did participate in projects which were co-financed by the FPEA through ProChile. The first project, in 1998, supported the first meeting of the International Berries Association. The second project, also in 1998, supported publicity for a variety of IQF fruits and vegetables in Europe, Latin America, and North America. The third project, in 1999, supported the travel of three officials (not from the responding companies) to the second meeting of the International Berries Association.

Under section 351.514(b) of our regulations, government activities to promote exports do not confer a benefit if the activities consist of general informational activities that do not promote particular products over others. Based on the information in the GOC's response, we preliminarily determine that the projects which were co-financed by the FPEA through ProChile promoted specific products. Therefore, we preliminarily determine that this assistance does not fall within the exception provided by section 351.514(b) of our regulations.

Instead, we preliminarily determine that the co-financing provided by the FPEA through ProChile confers a countervailable subsidy within the meaning of section 771(5) of the Act. The co-financing is specific within the meaning of section 771(5A)(B) of the Act because its receipt is tied to the anticipated exportation of merchandise covered by the project. Also, the co-financing is a direct transfer of funds from the GOC (*see* section 771(5)(D)(i) of the Act) providing a benefit in the amount granted (*see* section 351.504(a) of our regulations).

We are treating this assistance as ''non-recurring'' based on the factors identified in section 351.524(c)(2) of our regulations. In particular, each project funded by the FPEA/ProChile requires a separate application and approval, and the projects represent one-time events. This is consistent with our treatment of export assistance provided by ProChile in *Salmon—Preliminary Determination* (62 FR at 61804–5) (unchanged in final).

To calculate the countervailable subsidy, we used the allocation methodology described in section 351.524(b) of our regulations. Because the amounts approved in 1998 and 1999 were less than 0.5 percent of the value of appropriate exports in those years, we expensed the benefits in the years of receipt (*see* section 351.524(b)(2) of our regulations). We selected, as the ''appropriate'' exports, total berry exports from Chile for the two grants relating to meetings of the International Berries Association. For the grant related to IQF fruits and vegetables, we used total exports of IQF fruits and vegetables from Chile to Latin America, Europe and the United States. Based on the descriptions of these projects in the responses, there is no indication that benefits were limited only to the exports

of the member companies of the trade associations that received the funding.

Because all benefits received under this program were expensed in years prior to the POI, we find no countervailable subsidy to the subject merchandise.

III. Program Preliminarily Determined To Be Not Countervailable

Supplier Development Program

The Supplier Development Program, which is administered by the Corporacion de Fomento de la Produccion (''CORFO''), was created in 1998. The purpose of the Supplier Development Program is to encourage the creation and consolidation of relationships between large companies and the small companies that supply them or sub-contract from them.

Under this program, CORFO co-finances a two-phase project. In the first stage, the diagnostic stage, CORFO will fund up to 60 percent of the cost of analyzing the strengths and weaknesses of the supplier companies, and developing a plan for improvement. In the second phase, CORFO will fund up to 60 percent in the first year and 50 percent in subsequent years of the cost of carrying out the improvement plan. The maximum duration of the development phase is three years for non-agricultural producers and four years for agricultural producers. Despite the difference in the duration of support for agricultural and non-agricultural users, the ceiling for the amount CORFO can contribute to both groups is the same.

We preliminarily determine that the Supplier Development Program is not specific within the meaning of section 771(5)(A) of the Act. The provision of co-financing by CORFO for these projects is neither contingent upon exportation nor upon the use of domestic goods as a matter of law, and the laws or regulations of the program do not limit the industries in Chile that can apply for or receive the co-financing. Moreover, information submitted by GOC indicates that co-financing under the Supplier Development Program is used by a wide variety of industries in Chile, and that the industry producing the subject merchandise does not receive a predominant or disproportionate share of the deferrals. Therefore, we preliminarily determine that the Supplier Development Program does not confer a countervailable benefit.

IV. Program Preliminarily Determined To Have Been Eliminated

CORFO Export Credit Insurance Premium Assistance

According to the GOC's response, this program was terminated on January 19, 1998. In anticipation of the termination, CORFO's Credit Allocation Committee stopped granting contracts for this insurance in October 1997. Since the contracts had a one-year duration, all payments under the program would have been made by October 1998.

V. Programs Preliminarily Determined Not To Have Been Used

CORFO Export Credit Financing

Law No. 18576 (Export Credit Limits)

Law No. 18480 (Simplified Duty Drawback)

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(A)(i) of the Act, we have calculated individual rates for Comfrut, Frucol, and Olmue. We preliminarily determine that the net countervailable subsidy rate for each of these manufacturer/exporters is de minimis. Because all the producers/exporters that received our countervailing duty questionnaire had de minimis subsidies, we preliminarily determine that producers/exporters of IQF red raspberries in Chile did not receive countervailable subsidies (*see section 703(b)(4) of the Act*). Accordingly, we are not ordering suspension of liquidation of entries of IQF red raspberries from Chile.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration. If our final determination is affirmative, the ITC will make its final determination within 75 days after the Department makes its final determination.

Public Comment

In accordance with section 351.310 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

The hearing in this proceeding, if requested, is tentatively scheduled for November 21, 2001. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

If a hearing is held, parties must submit case briefs and the hearing will be limited to issues raised in the case briefs. Even if a hearing is not requested, parties may submit case briefs presenting arguments relevant to the final determination. Six copies of the business proprietary version and six copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than 30 days from the date of publication of this preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments, not to exceed five pages, and a table of statutes, regulations, and cases cited. Rebuttal briefs must be submitted to the Assistant Secretary no later than 4 days from the date of filing of the case briefs. Again, six copies of the business proprietary version and six copies of the non-proprietary version of rebuttal briefs must be filed. Written arguments should be submitted in accordance with section 351.309 of our regulations and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: October 9, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–25974 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101001A]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Law Enforcement Advisory Panel (LEAP).

DATES: This meeting will be held on Wednesday October 31, 2001, from 8:30 a.m. to 12 noon.

ADDRESSES: This meeting will be held at The W Hotel, 333 Poydras Street, New Orleans, LA 70130; telephone: 504–525–9444.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The LEAP will convene to discuss Draft Amendment 18 to the Reef Fish Fishery Management Plan (FMP) that contains various and numerous alternatives for the management of groupers; an Options Paper for Amendment 13 to the Shrimp FMP that contains alternatives to add rock shrimp to the Shrimp FMP, set maximum sustainable yield (MSY) and optimum yield (OY) levels, as well as definitions of overfishing and overfished for each shrimp stock; and consider bycatch quotas for red snapper. The LEAP will also review of status of cobia and possible management needs and receive an update on the state's joint enforcement agreements.

The LEAP will also receive status reports of various FMPs, amendments, and regulatory actions as well as state and federal enforcement reports. A progress report on the implementation of the 2001 Operations Plan will also be presented, and the LEAP will consider adoption of a Cooperative Law Enforcement Operations Plan for 2002 that was developed by the LEAP and the Gulf States Marine Fisheries Commission's (GSMFC) Law Enforcement Committee (LEC).

The LEAP consists of principal law enforcement officers in each of the Gulf states as well as the NMFS, the U.S. Coast Guard, and NOAA General Counsel. A copy of the agenda and related materials can be obtained by calling the Council office at 813–228–2815.

Although other non-emergency issues not on the agendas may come before the LEAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meetings. Actions of the LEAP will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 24, 2001.

Dated: October 11, 2001.

Richard W. Surdi,

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

[FR Doc. 01–25977 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101001C]

Endangered Species; Permits

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

ACTION: Receipt of request to modify scientific research permit 1174.

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received a request to modify permit (1174) from Mr. Harold Brundage III, of Environmental Research and Consulting.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on November 15, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (phone: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov)

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under section 10 (a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Fish

Endangered Shortnose Sturgeon (*Acipenser brevirostrum*)

Modification Requests Received

The applicant requests a modification to Permit 1174. Permit 1174 authorizes

the capture, handling, and releasing of shortnose sturgeon. Handling entails genetic sample collection and external tagging. Modification 13 would increase the authorized magnitude of take for the purpose of implanting internal sonic transmitters in 30 adult sturgeon per year for 2 years.

Dated: October 10, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–25979 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100301A]

Marine Mammals, File No. 756–1630

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dan Tapster, BBC Natural History Unit, Broadcasting House, Whiteladies Road, Bristol, BS8 2LR, United Kingdom, has been issued a permit to take by Level B harassment one species, bottlenose dolphins (*Tursiops truncatus*), of marine mammals for purposes of commercial/educational photography.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301)713–2289); and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

FOR FURTHER INFORMATION CONTACT: Lynne Barre or Jill Lewandowski, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On June 6, 2001, notice was published in the **Federal Register** (64 FR 65687) that the above-named applicant had submitted a request for a permit to take one species of marine mammals by Level B harassment during the course of commercial photographic activities in Hilton Head, South Carolina. The requested permit has been issued, under the authority of §104(c)(6) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*).

Dated: October 5, 2001.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–25978 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100501A]

Marine Mammals; File No. 655–1652–00

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Scott D. Kraus, Ph.D., Edgerton Research Laboratory, New England Aquarium, Central Wharf, Boston, MA 02110–3309, has applied in due form for a permit to take North Atlantic right whales (*Eubalaena glacialis*) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before November 15, 2001.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978) 281–9200; fax (978) 281–9371; and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727) 570–5301; fax (727) 570–5320.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Tammy Adams (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant proposes to take up to 350 right whales in the Northern Atlantic population annually for a 5–year period. Taking will involve photo-identification, biopsy darting, ultrasound measurements, suction-cup tagging, acoustic playbacks and radio tagging of live whales, biological and pathological sample collection from dead whales. The objectives are: to monitor the health and status of the population by annually documenting as many individuals as possible, identifying skin and body condition, documenting anthropogenic scarring, identifying calf production, tracking calving intervals and birth rates of individual females, identifying sex, age, and genetic patterns in movement, behavior, and habitat use, documenting rates and causes of mortality, examining hormone and stress levels, and examining behavior and association data for trends over time; and to minimize the effects of human activities on the survival of right whales by developing ''whale-safe'' fishing gear and methods, reducing the impacts of shipping activities on right whales, and by testing hypotheses on the potential links between contaminants, biotoxins, food supply, nutrition, global warming, acoustic disturbance, and habitat loss, and the decline in reproduction of right whales.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 10, 2001.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–25981 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 66, No. 193, Thursday, October 4, 2001, page 50620.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., Monday, October 15, 2001.

CHANGES IN MEETING: The Commission meeting was canceled and is rescheduled for Tuesday, October 16, 2001 at 10 a.m.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway., Bethesda, MD 20207 (301) 504–0800.

Dated: October 12, 2001.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 01–26169 Filed 10–12–01; 2:13 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10 a.m, Tuesday, October 16, 2001.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED: *Bed Rails:* The staff will brief the Commission on options for Commission action to address hazards associated with portable bed rails.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: October 12, 2001.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 01–26170 Filed 10–12–01; 2:13 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revision of a Currently Approved Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In accordance with Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense (Health Affairs) announces the revision of a currently approved collection, with revision and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed revision of 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received December 17, 2001.

ADDRESSES: Written comments and recommendations on the information collection should be sent to Office of the Assistant Secretary of Defense (Health Affairs) TRICARE Management Activity, Skyline Five, Suite 810, 5111 Leesburg Pike, Falls Church, Virginia 22041–3206.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the above address or call Duaine Goodno, Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity at (703) 681–0039.

Title; Associated Form; and OMB Number: TRICARE Prime Program; TRICARE Prime Enrollment Application, TRICARE Prime Disenrollment Request, and TRICARE Prime Change Request; OMB No. 0720–0008.

Needs and Uses: These collection instruments serve as application for the enrollment, disenrollment and Primary Care Manager Change for the Department of Defense's TRICARE Prime program established in accordance with Title 10 U.S.C. Section 1099 (which calls for a healthcare enrollment system). Monthly payment options for retiree enrollment fees for TRICARE Prime is established in accordance with Title 10 U.S.C. Section 1097a(c). The information collected on the TRICARE Prime Enrollment Application provides the necessary data to determine beneficiary eligibility and to identify the selection of a health care option. The TRICARE Prime Disenrollment Request serves to disenroll an enrollee from TRICARE Prime on a voluntary basis. The TRICARE Prime Change Request serves to change the designated Primary Care Manager (PCM) when the beneficiary is relocating or merely requests a local PCM change, in accordance with the National Defense Authorization Act for Fiscal Year 2001 (P.L. 106–398), Section 723(b)(E).

Affected Public: Individuals or household.

Annual Burden Hours: 41,260.

Number of Respondents: 253,200.

Responses Per Respondent: 1.

Average Burden Per Response: TRICARE Prime Enrollment Application: 15 minutes; TRICARE Disenrollment Request: 5 minutes; TRICARE Prime PCM Change Request: 8 minutes.

Frequency: On occcasion.

SUPPLEMENTARY INFORMATION: The Department of Defense established TRICARE Prime as an enrollment option to give CHAMPUS-eligible beneficiaries a DOD-sponsored military managed care program. In order to simplify the collection of information on enrollment applications for TRICARE Prime, the existing information collection is being modified to create three separate forms: Initial enrollment, changes to a PCM and disenrollment. This modification decreases the total amount of time to complete forms by respondents. In order to implement this program, it is necessary that certain beneficiaries electing to enroll/disenroll/change PCMs complete an enrollment application/disenrollment request/PCM change request. Completion of these forms is an essential element of the TRICARE program.

Dated: October 9, 2001.

Patricia L. Toppings,

Alternative OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 01–25924 Filed 10–15–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for a new collection of information under the provisions, of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by November 15, 2001.

Title and OMB Number: West Point Engineering Graduates Surveys; OMB Number 0702–[To Be Determined].

Type of Request: New Collection.

Number of Respondents: 519.

Responses Per Respondent: 1.

Annual Responses: 519.

Average Burden Per Response: 25 minutes.

Annual Burden Hours: 218.

Needs and Uses: An assessment of perceptions of graduates on the effectiveness of the U.S. Military Academy programs and curricula is needed for periodic accreditation by the Accreditation Board for Engineering and Technology. The information collected will be used to evaluate programs/curricula and make changes deemed advisable. The information will be collected via seven surveys, each with content appropriate to graduates of engineering and engineering and engineering-related courses of study at the U.S. Military Academy. The surveys will go to graduates currently serving as officers in the U.S. Army and to graduates not currently serving. Respondents will be allowed to choose between completing a mailed survey or an Internet-based survey.

Affected Public: Individuals or Households.

Frequency: On Occasion (Every Three Years).

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing. WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 10, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 01–25925 Filed 10–15–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Prepare a Supplemental Draft Environmental Impact Statement (SDEIS) for the National Training Center (NTC) Land Expansion Proposal at Fort Irwin, California and Notice of Substitution of Lead Agency

AGENCY: U.S. Army National Training Center and Fort Irwin, Department of the Army, DoD.

ACTION: Notice of intent and notice of substitution of lead agency.

SUMMARY: Fort Irwin proposes to expand upon existing maneuver land in order to meet training needs for force-on-force and live fire training of heavy brigade and battalion-sized task forces. The advances in weapon systems (e.g., longer engagement ranges) require units to cover and operate over more ground (50km x 100km, as opposed to the 26km x 58km maneuver space currently available). The need for additional maneuver land at the NTC was identified because of changes in doctrine, equipment, and tactics. The need was validated and quantified by two Land Use Requirement Studies (LURS). The studies indicated a shortfall of approximately 193,000 acres. In 1997, a Draft Environmental Impact Statement (DEIS) was released for the proposed project. The DEIS examined several different alternatives and identified the preferred alternative as the ''Silurian Valley Alternative,'' an alternative that consisted of acquiring lands that lay primarily to the east and north of the present boundaries of Fort Irwin. After examining the impacts and feasibility of the alternatives contained within the DEIS, it was determined that no alternative in the 1997 DEIS, including the preferred alternative, met the Army's project goals and requirements.

As such, new alternatives have been formulated that now must be examined in a supplement to the 1997 DEIS. The new alternatives consist of various configurations of land that is to the east, west and south of the existing boundaries and will also utilize land within Fort Irwin boundaries that are currently off limits to mechanized training. Due to the age of the 1997 DEIS and the data contained therein, the supplement will also update all existing condition information for the study area and, as such, constitutes a complete redraft in addition to being a supplemental document.

The preferred alternative involves acquisition of approximately 110,000 new acres on the east and southwest sides of the existing NTC and the return to training use of approximately 22,000 acres in the south that are currently set aside on the NTC. While the proposed land expansion is less than the 193,000 acres identified in the LURS, it satisfies the most critical needs for additional maneuver land, while taking into account the Army's environmental stewardship responsibilities.

The Department of the Army has assumed responsibility for the SDEIS and has replaced the Bureau of Land Management as lead agency for this project. The Bureau of Land Management shall hereafter act as a cooperating agency to the project.

ADDRESSES: Direct written inquiries or comments concerning the proposed land expansion of the NTC and Fort Irwin to: NTC Land Expansion Program, Mr. Tim Reischl, NTC Site Manager, AFZJ–SP Strategic Planning Division, P.O. 105004, Forth Irwin, CA 92310.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Reischl at (760) 380–3872 by fax at (760) 380–2294 or Mr. Gary Ethridge at (909) 695–1999.

SUPPLEMENTARY INFORMATION: The SDEIS will consider reasonable alternatives including expansion (1) only to the east, (2) the east and south, (3) to the east and southwest and (4) to the east and west. The no action (continue operations with existing ranges and facilities) alternative required by National Environmental Policy Act will be evaluated. Other reasonable alternatives will also be considered.

Significant issues: The primary issues to be analyzed in this SDEIS include: Endangered species issues (potential impacts to two listed species—desert tortoise and Lane Mountain Milk vetch), air quality including PM_{10} standards, noise (aircraft/range firing), soil erosion, water quality, cultural resources, and other issues raised during public scoping.

Scoping: The SDEIS is being prepared as a supplement to the draft EIS published in 1997. The supplement considers other land and alternatives that were not considered in the DEIS. As such, an additional scoping meeting will be conducted on November 29, 2001, 2–5 p.m. and 6–9 p.m. in the Barstow City Hall Council Chambers, 220 E. Mountain View Avenue, Barstow.

Additional, the public will be notified through media and proper channels of the date, time and location. A mailing list has been prepared for public scoping and review throughout the process of preparation of this SDEIS. This list includes local, state and Federal officials having jurisdictional expertise or other interests in the project; concerned citizens; conservation groups; and local news media.

To comment by electronic mail or for more information, see the web site at www.fortirwinlandexpansion.com.

Dated: October 10, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I&E).

[FR Doc. 01–25996 Filed 10–15–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Chief of Engineers Environmental Advisory Board

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the forthcoming meeting of the Chief of Engineers Environmental Advisory Board (EAB). The meeting is open to the public.

DATES: The meeting will be held from 8 a.m. to 1 p.m. on Friday, November 2, 2001.

ADDRESSES: The meeting will be in room 142C, 4155 Clay Street, Vicksburg, Mississippi.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Cummings, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000, (202) 761–4558.

SUPPLEMENTARY INFORMATION: The Board advises the Chief of Engineers on environmental policy, identification and resolution of environmental issues and missions, and addressing challenges, problems and opportunities in an environmentally sustainable manner. The theme of this meeting is environmental sustainability. It will include a summary report of a workshop on sustainability, discussion of the definition of sustainability and what it means for the Corps, how this relates to studies and projects such as the proposed Yazoo Backwater Pump, and future research efforts at the Engineering Research and Development Center.

Local security measures will be in place. Additionally, interested parties will be required to present two forms of photo identification in order to access the meeting room.

Dated: October 11, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–25985 Filed 10–15–01; 8:45 am]

BILLING CODE 3710–92–P

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 December 17, 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: October 11, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Lists of Hearing Officers and Mediators.

Frequency: When modifications are deemed necessary.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 75,560.

Burden Hours: 15,292.

Abstract: Under Part B of the Individuals with Disabilities Education Act, each public educational agency receiving Part B funds must keep a list of persons who serve as hearing officers. The State keeps a list of mediators. These lists serve to provide interested parties with information about hearing officers and mediators qualifications.

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 Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@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. 01–25944 Filed 10–15–01; 8:45 am]

BILLING CODE 4000–01–P

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 December 17, 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: October 11, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Local Educational Agency Application Under Part B of the Individuals with Disabilities Education Act.

Frequency: When modifications are deemed necessary.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 14,422.

Burden Hours: 28,844.

Abstract: Local educational agencies and eligible State agencies must have an application on file with the State educational agency in odrder to be eligible for funds under Part B of the Individuals with Disabilities Education Act. The Local educational agency application is required to receive a Part B subgrant.

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 Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@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. 01–25945 Filed 10–15–01; 8:45 am]

BILLING CODE 4000–01–P

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 December 17, 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: October 11, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Part B Complaint Procedures.

Frequency: On Occasion; Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,079.

Burden Hours: 10,790.

Abstract: States are required to implement complaint procedures to

resolve complaints or allegations that a State (grantee) or a subgrantee that participates in the program funded under Part B of the Individuals with Disabilities Education Act is violating any requirement of Part B.

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 Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@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. 01–25946 Filed 10–15–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, November 1, 2001, 6 p.m. to 9:30 p.m.

ADDRESS: Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Quarterly update by representative from the Defense Nuclear Facilities Safety Board
2. Discussion of Working Group Task 3 Report on Radionuclide Soil Action Levels
3. Report on October 30 Rocky Flats Cleanup Agreement Principles
4. Officer elections
5. Other Board business may be conducted as necessary

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 9 a.m. to 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on October 10, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–25949 Filed 10–15–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–1–000]

Golden Spread Electric Cooperative, Inc. v. Southwestern Public Service Company; Notice of Complaint

October 10, 2001.

Take notice that on October 9, 2001, Golden Spread Electric Cooperative, Inc. (Golden Spread) filed a Complaint against Southwestern Public Service Company (SPS) pursuant to Rule 206 of the Commission's Rules of practice and procedure, 18 CFR 385.206, and in compliance with the confidentiality requirements set forth in 18 CFR 388.112. Golden Spread claims that SPS has violated certain provisions of a Commitment and Dispatch Agreement by and between SPS and Golden Spread.

SPS has been served a copy of the Complaint.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before October 29, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before October 29, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–25927 Filed 10–15–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2030–000]

Portland General Electric Company; Notice of Technical Meeting

October 10, 2001.

a. *Date and Time of Meeting:* November 8, 2001; from 8:30 A.M. to 4:30 P.M.

b. *Place:* Maccie Conroy Center, Jefferson County Fair Complex, 430 SW Fairgrounds Road, Madras, Oregon.

c. *FERC Contact:* Nan Allen at (202) 219–2938; *nan.allen@ferc.fed.us.*

d. *Purpose of the Meeting:* The Federal Energy Regulatory Commission staff and consultants will attend a workshop presented by the Portland General Electric Company and the Confederated Tribes of the Warms Springs Reservation of Oregon. The presentation will cover topics related to the relicensing of the Pelton Round Butte Hydroelectric Project, FERC No. 2030–036.

e. *Proposed Agenda:* (A) Introductions; (B) Relicensing process; (C) Tribal Perspectives; (D) Overview of license application and proposed project operations; (E) Concurrent sessions: (1) Fisheries Resources and (2) Terrestrial, Recreation, Land and Aesthetic Resources; and (F) Cultural Resources.

f. All local, state, and Federal agencies, Indian Tribes, and interested parties, are hereby invited to attend this meeting as participants.

David P. Boergers,

Secretary.

[FR Doc. 01–25929 Filed 10–15–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–2–000]

PPL EnergyPlus, LLC, Complainant, v. Delmarva Power & Light Company, Respondent; Notice of Complaint

October 10, 2001.

Take notice that on October 9, 2001, PPL EnergyPlus, LLC (PPL EnergyPlus) filed with the Federal Energy Regulatory Commission (Commission) a Complaint against Delmarva Power & Light Company alleging a violation of the filed rate doctrine pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206.

PPL EnergyPlus served a copy of the Complaint on Delmarva Power & Light Company, PJM Interconnection, L.L.C. and The Easton Utilities Commission.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before October 29, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before October 29, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–25928 Filed 10–15–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL01–10–000 and EL01–10–001]

Puget Sound Energy, Inc., Complainant, v. All Jurisdictional Sellers of Energy and/or Capacity at Wholesale Into Electric Energy and/or Capacity Markets in the Pacific Northwest, Including Parties to the Western Systems Power Pool Agreement, Respondents; Notice of Opportunity for Public Comment on Administrative Law Judge's Recommendations and Proposed Findings of Fact

October 10, 2001.

Take notice that on September 24, 2001, Judge Carmen A. Cintron, the Presiding Administrative Law Judge in the captioned proceeding, issued Recommendations and Proposed Findings of Fact in a preliminary evidentiary proceeding to develop a factual record on whether there may have been unjust and unreasonable charges for ''spot market'' bilateral sales in the Pacific Northwest for the period beginning December 25, 2000 through June 20, 2001. *Puget Sound Energy, Inc.* v. *All Jurisdictional Sellers of Energy and/or Capacity at Wholesale Into Electric Energy and/or Capacity Markets in the Pacific Northwest, Including Parties to the Western Systems Power Pool Agreement,* 96 FERC ¶ 63,044 (2001). The Commission is providing interested parties an opportunity to submit comments on Judge Cintron's Recommendations and Proposed Findings of Fact, as discussed below.

Any person desiring to be heard concerning Judge Cintron's Recommendations and Proposed Findings of Fact should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and comments must be filed on or before October 31, 2001. Comments will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make commenters parties to the proceedings. Any person wishing to become a party, if it has not already done so, must file a motion to intervene. Judge Cintron's Recommendations and Proposed Findings of Fact may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments 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/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–25942 Filed 10–15–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2536–001, et al.]

New York Independent System Operator, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 9, 2001.

Take notice that the following filings have been made with the Commission:

1. New York Independent System Operator, Inc.

[Docket No. ER01–2536–001]

Take notice that on October 4, 2001 the New York Independent System Operator, Inc. (NYISO) filed a compliance filing in the above-captioned proceedings. The NYISO was required to submit this compliance filing pursuant to New York Independent System Operator, Inc., 96 FERC ¶ 61,251 (Sept. 4, 2001).

A copy of this filing was served upon all persons designated on the official service list compiled by the Secretary in Docket No. ER01–2536–000.

Comment date: October 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. High Desert Power Project, LLC

[Docket No. ER01–2641–001]

Take notice that on October 3, 2001, High Desert Power Project, LLC submitted for filing a First Substitute Sheet No. 1 to its FERC Electric Tariff, Original Volume No. 1, in compliance with the unpublished delegated letter order issued in this docket on September 18, 2001.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Idaho Power Company

[Docket No. ER01–2672–001]

Take notice that on October 4, 2001, Idaho Power Company amended its filing of the Generator Interconnection and Operating Agreement between Idaho Power Company and Emmett Power Company, under its open access transmission tariff in the above-captioned proceeding.

Comment date: October 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Plains End, LLC

[Docket No. ER01–2741–001]

Take notice that on October 4, 2001, Plains End, LLC submitted for filing a First Substitute Sheet No. 1 to its FERC Electric Tariff, Original Volume No. 1, in compliance with the letter order issued in this docket on September 24, 2001.

Comment date: October 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. West Valley Generation LLC

[Docket No. ER01–2942–001]

Take notice that on October 3, 2001, West Valley Generation LLC tendered for filing with the Federal Energy Regulatory Commission, (Commission) its First Revised Rate Schedule No. 1. West Valley's rate schedule was revised to reflect the change in name from PPM Six LLC to West Valley Generation LLC and to satisfy the Commission's regulations in 18 CFR 35.9.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER02–15–000]

Take notice that on October 2, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and Calpine Energy Services, L.P. (CES), dated October 1, 2001. This Service Agreement specifies that CES has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and CES to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests an effective date of October 1, 2001 for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER02–16–000]

Take notice that on October 2, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and American Electric Power Service Corporation (AEP), dated September 27, 2001. This Service Agreement specifies that AEP has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and AEP to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests an effective date of September 27, 2001 for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. PacifiCorp

[Docket No. ER02–17–000]

Take notice that on October 2, 2001, PacifiCorp tendered for filing, in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Umbrella Service Agreements with Port of Oakland and PPL Montana, LLC under PacifiCorp's FERC Electric Tariff, Third Revised Volume No. 12 (Tariff).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Carolina Power & Light Company

[Docket No. ER02–19–000]

Take notice that on October 2, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Service Agreement between CP&L and the following eligible buyer, DTE Energy Trading, Inc. Service to this eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 5.

CP&L requests an effective date of September 10, 2001 for this Service Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Southwestern Electric Power Company

[Docket No. ER02–20–000]

Take notice that on October 2, 2001, Southwestern Electric Power Company (SWEPCO) filed a Restated and Amended Power Supply Agreement (Restated Agreement) between SWEPCO and Tex-La Electric Cooperative of Texas, Inc. (Tex-La). The Restated Agreement supersedes in its entirety the Power Supply Agreement, dated November 15, 1990, as amended, between SWEPCO and Tex-La.

SWEPCO seeks an effective date of June 15, 2000 for the Restated Agreement.

Copies of the filing have been served on Tex-La and on the Public Utility Commission of Texas.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Company

[Docket No. ER02–21–000]

Take notice that on October 2, 2001, New England Power Company (NEP) tendered for filing a revised tariff sheet reflecting changes to NEP's Open Access Transmission Tariff, FERC Electric Tariff, Second Revised Volume No. 9 (Tariff No. 9). The revisions are intended to conform Tariff No. 9 to the Restated NEPOOL Agreement as recently amended.

NEP states that copies of the filing have been served upon all of its Tariff No. 9 customers and regulators in the States of Massachusetts, Rhode Island and New Hampshire.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Dresden Energy, LLC, S.W.E.C., LLC, Armstrong Energy Limited Partnership, LLLP, Troy Energy, LLC, Pleasants Energy, LLC

[Docket No. ER02–22–000; Docket No. ER02–23–000; Docket No. ER02–24–000; Docket No. ER02–25–000; Docket No. ER02–26–000]

Take notice that on October 2, 2001, Dresden Energy, LLC; S.W.E.C., LLC; Armstrong Energy Limited Partnership, LLLP; Troy Energy, LLC; and Pleasants Energy, LLC (collectively, the Applicants) filed applications for market-based rate authority pursuant to Section 205 of the Federal Power Act. The applications include market-based rate tariffs, forms of umbrella service agreements, codes of conduct (the Tariffs) and market analyses.

Applicants request that their Tariffs become effective on December 1, 2001, sixty days after the date of this filing.

Applicants have served this filing on the Ohio Public Utilities Commission, the Public Service Commission of West Virginia, the Pennsylvania Public Service Commission and the Virginia State Corporation Commission.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Mid-Continent Area Power Pool

[Docket No. ER02–27–000]

Take notice that on October 2, 2001, the Mid-Continent Area Power Pool, on behalf of its public utility members, filed a service agreement with ONEOK Power Marketing, Co. under MAPP Schedule R to the Restated Agreement.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Mid-Continent Area Power Pool

[Docket No. ER02–28–000]

Take notice that on October 2, 2001, the Mid-Continent Area Power Pool, on behalf of its public utility members, filed long term firm, short-term firm and non-firm transmission service agreements under MAPP Schedule F.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–25926 Filed 10–15–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

October 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor new license.

b. *Project No.:* 2064–004.

c. *Date Filed:* November 26, 1999.

d. *Applicant:* Flambeau Hydro LLC.

e. *Name of Project:* Winter Hydroelectric Project.

f. *Location:* Partially within the Chequamegon National Forest, on the East Fork of the Chippewa River near the town of Winter, Sawyer County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Mr. Loyal Gake, Flambeau Hydro LLC, P.O. Box 167, Neshkoro, WI 54960 (920) 293–4628 Ext.12.

i. *FERC Contact:* Michael Spencer, *michael.spencer@FERC.fed.us,* (202) 219–2846.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

l. Description of Project: The existing project consists of: (1) A 14-foot-high, 140-foot-long concrete stop log diversion dam (2) a 30 acre reservoir with a normal storage capacity of 165 area-feet, at a normal pool elevation of 1367.7 mean sea level; (3) a 2,100-foot-long power canal; (4) an 18-foot-wide concrete intake structure; (5) two 5.5-foot-diameter 78-foot-long steel penstocks; (6) a powerhouse containing two generating units with a combined capacity of 600 kW, and an average annual generation 2,130 MWh and appurtenant facilities.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20246, or by calling (202) 208–1371. The application may be viewed on the web 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.

n. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of application has been accepted for filing

Notice of NEPA Scoping (unless scoping has already occurred)
Notice of application is ready for environmental analysis
Final amendments to the application must be filed with the Commission*
Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document
Order issuing the Commission's decision on the application

* Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents -All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 01–25930 Filed 10–15–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions to Intervene, and Protests

October 10, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2232–428.

c. *Date Filed:* July 30, 2001.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Catawba Wateree Hydroelectric Project.

f. *Location:* Counties and Lakes affected in North Carolina: Counties: Alexander, Burke, Caldwell, Catawba, Gaston, Iredell, Lincoln, McDowell, and Mecklenburg. Lakes: James, Rhodiss, Hickory, Lookout Shoals, Norman, and Mountain Island.

Counties and Lakes affected in South Carolina: Counties: Chester, Fairfield, Kershaw, Lancaster, and York. Lakes: Wylie, Fishing Creek, Great Falls, Rocky Creek, and Wateree.

The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006. Phone: (704) 382–5778.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 219–3076, or e-mail address: brian.romanek@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* November 16, 2001.

All documents (original and eight copies) should be filed with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Please include the project number (2232–428) on any comments or motions filed.

k. *Description of Proposal:* Pursuant Commission Order issued February 2, 1996, entitled Order Approving and Modifying Shoreline Management Plan for the Catawba-Wateree Hydroelectric Project, the licensee filed a revised Shoreline Management Plan (SMP). Since the 1996 order, the licensee requested and was granted additional time to complete the plan. The plan addresses relevant aspects of the land and water resources for each of the 11 project reservoirs consisting of 1,653.6 shoreline miles. The plan includes, in part, for each reservoir Shoreline Use Classification Mapping, Shallow Water Fish Habitat Survey Results, a Cultural Resources Assessment, a Recreational Use and Boating Capacity Assessment, Proposed Recreational Enhancements, and information concerning woody debris management, riparian management, terrestrial species assessment, and cumulative impacts of shoreline development, and shoreline stabilization technique selection. A notable portion of the revised plan has been approved by the Commission by order issued December 1, 2000, entitled Order Modifying and Approving Revised Shoreline Management Classification Maps. This order was issued after notice and opportunity for hearing and after an Environmental Assessment (EA) was completed. The portions of the plan that were considered in that order and EA were the classification maps, shoreline stabilization technique selection, Shallow Water Fish Habitat Survey Results, and woody debris management.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

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. 01–25931 Filed 10–15–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7084–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; See List of ICRs Planned To Be Submitted in Section A

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 EPA is planning to submit for renewal the following two current Information Collection Requests (ICR) to the Office of Management and Budget (OMB): Best Management Practices (''BMP''), Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category (EPA ICR No. 1829.02) and Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category (EPA ICR No. 1877.02). OMB had approved the current BMP information collection on March 2, 1999, and had approved the current milestones plan collection on January 13, 1999. Before submitting the renewal ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described at the beginning of **SUPPLEMENTARY INFORMATION.**

DATES: Comments must be submitted on or before December 17, 2001.

ADDRESSES: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by e-mail at *farmer.sandy@epa.gov*, or download the ICR off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1829.02 or 1877.02. A hard copy of an ICR may be obtained without charge by calling the identified information contact individual for each ICR in Section B of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: For specific information on the individual ICRs see Section B of the **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION:

For All ICRs

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

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.

A. List of ICRs Planned To Be Submitted

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit for renewal the following two Information Collection Requests (ICR) to the Office of Management and Budget (OMB):

(1) Best Management Practices, Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1829.02, OMB Control No. 2040–0207, Expires on 03/31/2002;

(2) Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1877.02, OMB Control No. 2040–0202, Expires on 01/31/2002.

B. Contact Individuals for ICRs

(1) Best Management Practices, Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category, Sandy Farmer, (202) 260–2740, farmer.sandy@epa.gov. (OMB Control No. 2040–0207; EPA ICR No. 1829.01) expiring 03/31/2002;

(2) Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category, Sandy Farmer, (202) 260–2740, farmer.sandy@epa.gov. (OMB Control No. 2040–0202; EPA ICR No. 1877.01) expiring 01/31/2002.

C. Individual ICRs

(1) Best Management Practices, Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1829.01, OMB Control No. 2040–0207, Expires on 03/31/2002.

Affected Entities: Entities potentially affected by this action are those operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard; those operations that chemically pulp wood fiber using papergrade sulfite methods to produce pulp and/or paper; and State and local governments which regulate areas where such operations are located.

Abstract: The Environmental Protection Agency (EPA) has established Best Management Practices (BMPs) provisions as part of final amendments to 40 CFR part 430, the Pulp, Paper and Paperboard Point Source Category promulgated on April 15, 1998 (see 63 FR 18504). These provisions, promulgated under the authorities of Sections 304, 307, 308, 402, and 501 of the Clean Water Act, require that owners or operators of bleached papergrade kraft and soda mills and papergrade sulfite mills implement site-specific BMPs to prevent or otherwise contain leaks and spills of spent pulping liquors, soap and turpentine and to control intentional diversions of these materials. See 40 CFR 430.03.

EPA has determined that these BMPs are necessary because the materials controlled by these practices, if spilled or otherwise lost, can interfere with wastewater treatment operations and

lead to increased discharges of toxic, nonconventional, and conventional pollutants. For further discussion of the need for BMPs, see Section VI.B.7 of the preamble to the amendments to 40 CFR part 430. See 63 FR at 18561–66.

The BMP program includes information collection requirements that are intended to help accomplish the overall purposes of the program by, for example, training personnel, see 40 CFR 430.03(c)(4), analyzing spills that occur, see 40 CFR 430.03(c)(5), identifying equipment items that might need to be upgraded or repaired, see 40 CFR 430.03(c)(2), and performing monitoring—including the operation of monitoring systems—to detect leaks, spills and intentional diversion and generally to evaluate the effectiveness of the BMPs, see 40 CFR 430.03(c)(3), (c)(10), (h), and (i). The regulations also require mills to develop and, when appropriate, amend plans specifying how the mills will implement the specified BMPs, and to certify to the permitting or pretreatment authority that they have done so in accordance with good engineering practices and the requirements of the regulation. See 40 CFR 430.03(d), (e) and (f). The purpose of those provisions is, respectively, to facilitate the implementation of BMPs on a site-specific basis and to help the regulating authorities to ensure compliance without requiring the submission of actual BMP plans. Finally, the recordkeeping provisions are intended to facilitate training, to signal the need for different or more vigorously implemented BMPs, and to facilitate compliance assessment. See 40 CFR 430.03(g).

EPA has structured the regulation to provide maximum flexibility to the regulated community and to minimize administrative burdens on National Pollutant Discharge Elimination System (NPDES) permit and pretreatment control authorities that regulate bleached papergrade kraft and soda and papergrade sulfite mills. Although EPA does not anticipate that mills will be required to submit any confidential business information or trade secrets as part of this ICR, all data claimed as confidential business information will be handled by EPA pursuant to 40 CFR part 2.

Burden Statement: The recurring burden for a mill to periodically review and amend the BMP plan, prepare spill reports, perform additional monitoring, hold refresher training, and conduct recordkeeping and reporting is estimated to be 617, 641 and 665 hours annually per mill for simple, moderately complex and complex mills, respectively. The total recurring cost for mills associated with the BMP requirements is estimated at $1,807,670.

The recurring burden to State NPDES and pretreatment control authorities is estimated at ten hours per year per facility for reviewing periodic (e.g., annual or semi-annual) monitoring reports and conducting compliance reviews. The total recurring costs for State NPDES and pretreatment control authorities is estimated at $32,100.

The recurring burden to EPA is estimated at eight hours per year per facility for support of State and local authority efforts in reviewing periodic (e.g., annual or semi-annual) monitoring reports and conducting compliance reviews. The total recurring costs for EPA is estimated at $25,680.

(2) Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1877.01, OMB Control No. 2040–0202, Expires on 01/31/2002.

Affected Entities: Entities potentially affected by this action are those existing, direct discharging mills with operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard and that choose to participate in the Voluntary Incentives Program established under 40 CFR 430.24(b).

Abstract: The Environmental Protection Agency (EPA) has established the Milestones Plan requirements as an element of the Voluntary Advanced Technology Incentives Program (VATIP) codified at 40 CFR 430.24(b). The Milestone Plan requirements were promulgated as amendments to VATIP on July 7, 1999 (see 64 FR 36582) and are codified at 40 C.F.R. 430.24(b)(3). The Milestones Plan provisions, promulgated under the authorities of Sections 301, 304, 306, 308, 402 and 501 of the Clean Water Act, require owners or operators of bleached papergrade kraft and soda mills enrolled in the VATIP to submit information to describe each envisioned new technology component or process modification the mill intends to implement in order to achieve the VATIP Best Available Technology (BAT) limits, including a master schedule showing the sequence of implementing new technologies and process modifications and identifying critical-path relationships within the sequence.

EPA has determined that the Milestones Plan will provide valuable benchmarks for reasonable inquiries into progress being made by participating mills toward achievement of the interim and ultimate Tier limits of the VATIP and will offer the necessary flexibility to the mill and the permit writer so that the milestones selected to be incorporated into the mill's NPDES permit reflect the unique situation of the mill.

The Milestones Plan must include the following information for each new individual technology or process modification: (1) A schedule of anticipated dates for associated construction, installation, and/or process changes; (2) the anticipated dates of completion for those steps; (3) the anticipated date that the Advanced Technology process or individual component will be fully operational; (4) and the anticipated reductions in effluent quantity and improvements in effluent quality as measured at the bleach plant (for bleach plant, pulping area and evaporator condensates flow and BAT parameters other than Adsorbable Organic Halides (AOX)) and the end of the pipe (for AOX). See 40 CFR 430.24(c)(3). For those technologies or process modifications that are not commercially available or demonstrated on a full-scale basis at the time of plan development, the Plan must include a schedule for initiating and completing research (if necessary), process development, and mill trials. See 40 CFR 430.24(c)(3)(i). The Plan must also include contingency plans in the event that any of the technologies or processes specified in the Milestones Plan need to be adjusted or alternative approaches developed to ensure that the ultimate tier limits are achieved by the deadlines specified in 40 CFR 430.24(b)(4)(ii). See 40 CFR 430.24(c)(4).

EPA has structured the Plan to provide maximum flexibility to the regulated community and to minimize administrative burdens on NPDES permit authorities that regulate bleached papergrade kraft and soda mills. All data claimed as confidential business information (''CBI'') or trade secrets submitted by the mills as part of this ICR will be handled by EPA pursuant to 40 CFR part 2. If a mill claims all or part of the milestones plan as CBI, the mill must prepare and submit to the NPDES permitting authority a summary of the plan for public release. 40 CFR 430.24(c). However, EPA does not believe that submission of any CBI will be necessary and, therefore, burden associated with such submissions has not been included in the ICR.

Burden Statement: EPA estimates that 29 mills will voluntarily enroll into VATIP. The burden for a mill (which chooses to participate voluntarily in the incentives program) to prepare and

submit a Milestones Plan is estimated to average approximately 120 hours per respondent. This is a one-time burden. State NPDES permitting authorities' burden to review the Milestones Plans is estimated at 16 hours per respondent as an initial burden with an average recurring annual review burden of 6 hours per respondent. Agency burden to review the Milestones Plans is estimated at 20 hours per respondent as an initial burden with an average recurring annual review burden of 4 hours per respondent. The total initial cost for the 29 mills anticipated to enroll in the VATIP and thus be required to develop a Milestones Plan is estimated at $480,900. The total initial burden incurred by State permitting authorities and EPA for review of the Milestones Plans is estimated at $15,680 and $19,600, respectively. The total recurring burden incurred by State permitting authorities and EPA for periodic review of the Milestones Plans is estimated at $5,880 and $3,920, respectively. There is no recurring burden for mill respondents associated with this information collection.

Dated: October 5, 2001.

Geoffrey H. Grubbs,

Director, Office of Science and Technology

[FR Doc. 01–25968 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7093–9]

Investigator-Initiated Grants: Request for Applications

AGENCY: Environmental Protection Agency.

ACTION: Notice of request for applications.

SUMMARY: This notice provides information on the availability of fiscal year 2002 investigator-initiated grants program announcements, in which the areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth. Grants will be competitively awarded following peer review.

DATES: Receipt dates vary depending on the specific research areas within the solicitations and are listed below.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research (8703R), 1200 Pennsylvania Avenue, NW., Washington DC 20460. The complete announcement can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa under ''announcements.''

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency (EPA) invites research grant applications for the following areas: (1) Epidemiologic Research on Health Effects of Long-term Exposure to Ambient Particulate Matter and Other Air Pollutants and (2) Development of Watershed Classification Systems for Diagnosis of Biological Impairment in Watersheds. Applications must be received no later than 4 p.m. ET on January 18, 2002 for topic (1) and January 30, 2002 for topic (2). The RFAs provide relevant background information, summarize EPA's interest in the topic areas, and describe the application and review process.

Contact persons for the Particulate Matter RFA are Stacey Katz (*katz.stacey@epa.gov*), telephone 202–564–8201 and Gail Robarge (*robarge.gail@epa.gov*), telephone 202–564–8301. Contact person for the Watershed Classification RFA is William Stelz (*stelz.william@epa.gov*), telephone 202–564–6834.

Dated: October 1, 2001.

Peter W. Preuss,

Director, National Center for Environmental Research.

[FR Doc. 01–25966 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[WH–FRL–7084–6]

U.S. EPA Reschedule Notice of the Public Meeting on the Draft Strategy for Waterborne Microbial Disease

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This action announces the rescheduled public meeting on the Draft Strategy for Waterborne Microbial Disease. The Environmental Protection Agency (EPA) is holding a meeting on November 6, 2001, to present to interested parties the Draft Strategy for Waterborne Microbial Disease. The draft Strategy explains suggested approaches to reducing microbial pollution of the Nation's waters. Interested parties will have an opportunity to comment on the approaches listed in the draft Strategy at this meeting. In addition interested parties may provide written comments on the draft strategy by November 15, 2001.

DATES: The public meeting concerning the Draft Strategy for Waterborne Microbial Disease will be held November 6, 2001, from 8 a.m. to 5 p.m. EST.

ADDRESSES: The meeting will be held at the Hilton Crystal City Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia, in the Dewey conference room. Sciences, Inc. (an EPA contractor) will provide logistical support for the meeting.

FOR FURTHER INFORMATION CONTACT: For information about the meeting, please contact Ms. Harriet McCollum at Sciences, Inc., 1800 Diagonal Road, Suite 500, Alexandria, VA 23314; phone (703) 684–0123; fax (703) 684–2223, or email at *hmccollum@sciences.com.*

Approximately 100 seats will be available on a first-come, first serve basis. On-site registration for the meeting will begin at 8 am, EST. Members of the public wishing to attend the meeting may pre-register by phone by contacting Ms. McCollum by October 24, 2001. Those registered by October 24, 2001 will receive background materials prior to the meeting.

For information concerning the Draft Strategy for Waterborne Microbial Disease, or a copy of the draft Strategy please, contact Lisa Almodovar, at the U. S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, (MC–4304), Washington, DC 20460; phone: (202) 260–1310, fax: (202) 260–1036 or email at *almodovar.lisa@epa.gov.* Copies of the draft Strategy are available on EPA's Internet at *www.epa.gov/ost/criteria/microbialdraft.pdf.*

SUPPLEMENTARY INFORMATION: EPA, States, local governments and the private sector have made significant strides in reducing water pollution. Much of this progress is the result of controls on pollution from industries and sewage treatment facilities. Despite this progress, States report that about 30% of the waters they assess do not meet clean water goals. Today, water pollution problems are caused by a wide range of diffuse sources (e.g. pollutant runoff from agricultural lands, stormwater flows from cities, inadequate sewage treatment, and seepage into ground water). Many of these sources contribute microbial contaminants to waterbodies and this contamination impairs the use of waters for recreational, fishing, and shellfish growing purposes and limits use of waters as a source of drinking water.

In response to growing evidence of significant microbial contamination of waters, the Office of Water has prepared a Draft Strategy for Waterborne Microbial Disease. This draft Strategy

describes the microbial water pollution problem and identifies four areas of concern as the primary focus of efforts to reduce water pollution and threats to public health.

EPA seeks public comment on all aspects of the draft Strategy. Examples of questions that might be addressed by the public include:

(1) Does the draft Strategy appropriately describe the water pollution problem and public health risk posed by microbial contamination?

(2) The draft Strategy emphasizes four areas of concern. Are these four areas appropriate as the focus of the draft Strategy? If not, which other areas of concern should be addressed and why?

(3) Are the actions identified to strengthen water pollution control programs appropriate? What other actions should be considered?

EPA will produce a report that will summarize the meeting as well as capture all comments and suggestions. Submitted written comments will also be included in the document. Comments must be submitted to Ms. Harriet McCollum at Sciences, Inc., 1800 Diagonal Road, Suite 500, Alexandria, VA 23314; phone (703) 684–0123; fax (703) 684–2223, or email at *hmccollum@sciences.com*, by October 24, 2001.

Dated: October 3, 2001.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 01–25965 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–59379; FRL–6808–1]

Approval of Test Marketing Exemption for a Certain New Chemical; With Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–01–12. The test marketing conditions are described in the TME application and in this notice.

DATES: Approval of this TME is effective October 9, 2001. Written comments will be received until October 31, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–59379 and the TME number TME–01–12 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Adella Watson, New Chemicals Prenotice Management Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–3752; e-mail address: watson.adella@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed in particular to the chemical manufacturer and/or importer who submitted the TME to EPA. This action may, however, be of interest to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

A. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. *In person*. The Agency has established an official record for this action under docket control number OPPTS–59379. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

III. How and to Whom Do I Submit Comments?

Notice of receipt of this application was not published in advance of approval. Therefore, an opportunity to submit comments is being offered at this time. You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–59379 in the subject line on the first page of your response. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center at the address in Unit II.B. between noon and 4 p.m., Monday through Friday, excluding holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

A. *By mail*. Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

B. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

C. *Electronically*. You may submit your comments electronically by e-mail to: oppt.ncic@epa.gov or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be

CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–59379. Electronic comments may also be filed online at many Federal Depository Libraries.

IV. How Should I Handle CBI Information That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person identified under **FOR FURTHER INFORMATION CONTACT**.

V. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the proposed rule or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

VI. What is the Agency's Authority for Taking this Action?

Section 5(h)(1) of TSCA and 40 CFR 720.38 authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes, if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

VII. What Action is the Agency Taking?

EPA has approved the above-referenced TME. EPA has determined that test marketing the new chemical substance, under the conditions set out in the TME application and in this notice, will not present any unreasonable risk of injury to health or the environment.

VIII. What Restrictions Apply to this TME?

The test market time period, production volume, number of customers, and use must not exceed specifications in the application and this notice. All other conditions and restrictions described in the application and in this notice must also be met.

TME–01–12

Date of Receipt: August 24, 2001. The extended comment period will close October 31, 2001.

Applicant: CBI.

Chemical: (G) Polymeric acrylic polyol.

Use: (G) Component of coating with open use.

Production Volume: 2,200 kg/yr.

Number of Customers: One.

Test Marketing Period: One year, commencing on first day of commerical manufacture.

The following additional restrictions apply to this TME. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

IX. What was EPA's Risk Assessment for this TME?

EPA identified no significant health or environmental concerns for the test market substance. Therefore, EPA has determined that the proposed test market activities will not present an unreasonable risk of injury to human health or the environment.

X. Can EPA Change Its Decision on this TME in the Future?

Yes. The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: October 9, 2001.

Rebecca S. Cool,

Chief, New Chemicals Prenotice Management Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 01–25969 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51977; FRL–6803–9]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish

periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 13, 2001 to August 24, 2001, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

DATES: Comments identified by the docket control number OPPTS–51977 and the specific PMN number, must be received on or before November 15, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51977 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'','' Regulations and Proposed Rules, and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–51977. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, any test data submitted by the Manufacturer/Importer is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B– 607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51977 and the specific PMN number in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51977 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 13, 2001 to August 24, 2001, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 45 PREMANUFACTURE NOTICES RECEIVED FROM: 08/13/01 TO 08/24/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0809	08/14/01	11/12/01	Shin-ETSU Silicones of America, Inc.	(S) Ingredient for rubber compounds	(S) Propanoyl, fluoride, 2,3,3,3-tetrafluoro-2-[1,1,2,3,3,3-hexafluoro-2-(heptafluoropropoxy)propoxy]-, polymer with trifluoro(trifluoromethyl)oxirane, reaction products with 3-(ethenyldimethylsilyl)-n-methylbenzenamine
P–01–0810	08/13/01	11/11/01	CBI	(G) Fuel oil tubes	(G) Tetrafluoroethylene-hexafluoropropylene-ethylene copolymer
P–01–0811	08/14/01	11/12/01	CBI	(G) An open non-dispersive use	(G) Modified hydrogenated rosin
P–01–0812	08/13/01	11/11/01	CIBA Specialty Chemicals Corporation	(G) Open, non-dispersive use as an additive to colorants for paints, plastic, etc.;open, non-dispersive use as an additive to colorants for paints, etc.	(G) Phthalimide quinacridone derivative
P–01–0813	08/15/01	11/13/01	CBI	(G) Fuel additive	(G) Cerium-based organic compound
P–01–0814	08/16/01	11/14/01	CBI	(G) Open non-dispersive use	(G) Polyacrylic resin, based on hydroxyethyl methacrylate
P–01–0815	08/16/01	11/14/01	CIBA Specialty Chem. Corp., Colors Division	(G) Textile dye	(G) 1,3,5-naphthalenetrisulfonic acid, [[[[[substituted alkyl amino]-6-halogen-1,3,5-triazin-2-yl]amino]substituted]azo]-, trisodium salt
P–01–0816	08/16/01	11/14/01	CBI	(G) Component in lubricant for metal working applications	(G) Mixed esters of ethoxytriethanolamine polyol, and fatty acids
P–01–0817	08/16/01	11/14/01	CBI	(G) Coatings additive	(G) Silicone acrylate
P–01–0818	08/17/01	11/15/01	CBI	(G) The pmn'd substance will be used in small percentages as an oil soluble friction modifier in highly specialized hydraulic equipment lubrication applications	(G) Alkane diols
P–01–0819	08/17/01	11/15/01	CBI	(G) The pmn'd substance will be used in small percentages as an oil soluble friction modifier in highly specialized hydraulic equipment lubrication applications	(G) Alkane diols
P–01–0820	08/14/01	11/12/01	CBI	(G) Resin coating	(G) Urethane acrylate
P–01–0821	08/15/01	11/13/01	CBI	(G) Adhesive	(G) Copolymer of acrylic esters
P–01–0822	08/20/01	11/18/01	Degussa Corporation	(S) Emulsifier for water based emulsion (oil in water)	(G) Dimethylsilyloxy-modified nonylphenolpolyglycolether
P–01–0823	08/20/01	11/18/01	Arch Chemicals, Inc.	(S) Use as an ingredient in water-borne urethane	(G) Carboxyl polyol triethylamine salt

I. 45 PREMANUFACTURE NOTICES RECEIVED FROM: 08/13/01 TO 08/24/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0826	08/21/01	11/19/01	CBI	(G) Fluid retention polymer	(G) Acrylamide alkyl propanedulfonic acid, vinyl alkyllactam, vinyl alkylamide, alkenamide, neutralized salt
P–01–0827	08/21/01	11/19/01	Exxonmobil Chemical Company	(G) Catalyst component	(G) Alkyl halide
P–01–0828	08/22/01	11/20/01	Hayashibara International Inc.	(S) Starch degrading adent for use in detergents; starch degrading agent to produce maltodextrin for adhesives	(G) Isoamylase
P–01–0829	08/17/01	11/15/01	Haarmann and Reimer	(G) Open, non-dispersive use with limited employee exposure	(S) 17-oxabicyclo[14.1.0]heptadec-8-ene
P–01–0830	08/22/01	11/20/01	CBI	(G) Open no-dispersive use	(G) Polyacrylic resin, based on methyl methacrylate
P–01–0831	08/22/01	11/20/01	CBI	(S) Paper release additive	(G) Silane hydrolyzate
P–01–0832	08/16/01	11/14/01	CBI	(G) Pigment dispersant	(G) Polymeric acrylic ester
P–01–0833	08/16/01	11/14/01	CBI	(G) Absorbent polymer	(G) Crosslinked polyamine
P–01–0834	08/17/01	11/15/01	CBI	(G) Wetting agent for waterborne coating, inks and adhesive formulations	(G) Aliphatic ester of dicarboxylic acid
P–01–0835	08/17/01	11/15/01	CBI	(G) Wetting agent for waterborne coating, inks and adhesive formulations	(G) Aliphatic ester of dicarboxylic acid
P–01–0836	08/17/01	11/15/01	CBI	(G) Wetting agent for waterborne coating, inks and adhesive formulations	(G) Aliphatic ester of dicarboxylic acid
P–01–0837	08/17/01	11/15/01	CBI	(G) Wetting agent for waterborne coating, inks and adhesive formulations	(G) Aliphatic ester of dicarboxylic acid
P–01–0838	08/23/01	11/21/01	CBI	(G) Cleaners	(G) Alcohol, ethoxylated, propoxylated
P–01–0839	08/22/01	11/20/01	CBI	(G) Open, dispersive - used in reinforced molding operations	(G) Unsaturated polyester
P–01–0840	08/22/01	11/20/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Polybasic acids, polymers with branched alkyl alcohols
P–01–0841	08/22/01	11/20/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Polybasic acids, polymers with branched alkyl alcohols
P–01–0842	08/22/01	11/20/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Polybasic acids, polymers with branched alkyl alcohols
P–01–0843	08/22/01	11/20/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Polybasic acids, polymers with branched alkyl alcohols
P–01–0844	08/22/01	11/20/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Polybasic acids, polymers with branched alkyl alcohols
P–01–0845	08/22/01	11/20/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Polybasic acids, polymers with branched alkyl alcohols
P–01–0846	08/22/01	11/20/01	CBI	(G) Open non-dispersive (additive)	(G) Aqueous polyurethane dispersion
P–01–0847	08/23/01	11/21/01	CBI	(G) Coating component	(G) Styrene, polymer with alky methacrylated and an alkanedioic acid diester
P–01–0848	08/24/01	11/22/01	Johnson Polymer	(G) Open, non-dispersive use	(G) Hydroxy functional acrylic emulsion
P–01–0849	08/24/01	11/22/01	Johnson Polymer	(G) Open, non-dispersive use	(G) Hydroxy functional acrylic emulsion
P–01–0850	08/24/01	11/22/01	Johnson Polymer	(G) Open, non-dispersive use	(G) Hydroxy functional acrylic emulsion
P–01–0851	08/24/01	11/22/01	Johnson Polymer	(G) Open, non-dispersive use	(G) Hydroxy functional acrylic emulsion
P–01–0852	08/24/01	11/22/01	Johnson Polymer	(G) Open, non-dispersive use	(G) Hydroxy functional acrylic emulsion
P–01–0853	08/24/01	11/22/01	Johnson Polymer	(G) Open, non-dispersive use	(G) Hydroxy functional acrylic emulsion
P–01–0854	08/24/01	11/22/01	CBI	(G) Component of coating eith an open use	(G) Polymeric acrylic polyol

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

II. 1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 08/13/01 TO 08/24/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–01–0012	08/24/01	10/08/01	CBI	(G) Component of coating with an open use	(G) Polymeric acrylic polyol

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III. 16 NOTICES OF COMMENCEMENT FROM: 08/13/01 TO 08/24/01

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–1094	08/14/01	07/27/01	(G) Sodium salt of a naphthalene azo dyestuff
P–00–1173	08/14/01	08/09/01	(G) Bis[(alkoxysilyl)alkyl]polysulfide
P–00–1174	08/14/01	08/09/01	(G) Bis[(alkoxysilyl)alkyl]polysulfide
P–00–1216	08/23/01	07/03/01	(S) Phosphonic acid, 1,12-dodecanediylbis-
P–01–0182	08/14/01	07/06/01	(G) Methacrylate copolymer
P–01–0230	08/22/01	08/01/01	(G) Hydrolyzed silane
P–01–0293	08/17/01	07/17/01	(S) Beta-cyclodextrin, 6-chloro-1,4-dihydro-4-oxo-1,3,5-triazin-2-yl ethers, sodium salts
P–01–0390	08/23/01	07/31/01	(G) 2-5-furandione, polymer with ethene derivative, propyl ester
P–01–0418	08/23/01	08/06/01	(G) Polyurethane
P–01–0423	08/13/01	07/06/01	(G) Substituted benzoic acid
P–01–0430	08/17/01	07/18/01	(G) Polyalkylene oxide benzoate
P–01–0469	08/14/01	08/07/01	(S) 2-propenamide, *n*-[3-(dimethylamino)propyl]-2methyl-, polymer with 1-ethenyl-2-pyrrolidone, hydrochloride
P–01–0471	08/20/01	08/04/01	(G) Phosphorus modified epoxy resin
P–01–0501	08/14/01	08/07/01	(G) Polyester acrylate
P–01–0580	08/20/01	08/17/01	(G) Acrylic resin
P–99–0605	08/16/01	07/30/01	(G) Unsaturated polyester resin

List of Subjects

Environmental Protection, Chemicals, Premanufacturer notices.

Dated: September 28, 2001.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–25970 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51978; FRL–6807–2]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 27, 2001 to September 14, 2001, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

DATES: Comments identified by the docket control number OPPTS–51978 and the specific PMN number, must be received on or before November 16, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51978 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'','' Regulations and Proposed Rules, and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–51978. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, any test data submitted by the Manufacturer/Importer is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51978 and the specific PMN number in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51978 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 27, 2001 to September 14, 2001, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 66 PREMANUFACTURE NOTICES RECEIVED FROM: 08/27/01 TO 09/14/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0855	08/27/01	11/25/01	CBI	(G) Hydrophyllic modification polymers	(G) Substituted vinylether, ethoxylated, propoxylated
P–01–0856	08/27/01	11/25/01	Ethox Chemicals, LLC	(S) Pigment dispersant	(S) Cashew, nutshell liq., ethoxylated
P–01–0857	08/27/01	11/25/01	CBI	(G) Hot melt adhesive	(G) Butanediol alkyloxirane based polymer
P–01–0858	08/27/01	11/25/01	Reichhold, Inc.	(G) Resin for printing inks	(G) Amine salt of epoxy ester, polymer with alkeneoic acid, alkenylbenzene and vinyl ester of fatty acid
P–01–0859	08/27/01	11/25/01	CBI	(G) Additive, open, non-dispersive use	(G) Acrylic ester copolymer
P–01–0860	08/27/01	11/25/01	CBI	(G) Additive, open, non-dispersive use	(G) Acrylic ester copolymer
P–01–0861	08/27/01	11/25/01	CBI	(G) Additive, open, non-dispersive use	(G) Acrylic ester copolymer
P–01–0862	08/27/01	11/25/01	CBI	(G) Processing aid	(G) Ethoxylated alkylsulfate, substituted alkylamine salt
P–01–0863	08/28/01	11/26/01	CBI	(S) Polymer is used as a component in a pigmented protective coating (paint)	(S) 1,3-benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, 1,3-dihydro-1,3-dioxo-5-isobenzofurancarboxylic acid, 2,2-dimethyl-1,3-propanediol, hexanedioic acid, 1,6-hexanediol and 2-methyl-1,3-propanediol
P–01–0864	08/28/01	11/26/01	CBI	(G) Binder resin	(G) Acrylic polyol
P–01–0865	08/27/01	11/25/01	CBI	(S) Curing agent for epoxy coatings	(G) Ethylene amine aromatic epoxide adduct
P–01–0866	08/27/01	11/25/01	CBI	(S) Curing agent for epoxy coatings	(G) Ethylene amine aromatic epoxide adduct
P–01–0867	08/27/01	11/25/01	Westvaco Corporation - Chemical Division	(S) Modified rosin resin for lithographic inks	(G) Modified rosin polymer, with substituted phenol, paraformaldehyde and pentaerythritol
P–01–0868	08/27/01	11/25/01	Westvaco Corporation - Chemical Division	(S) Modified rosin resin for lithographic inks	(G) Modified rosin polymer, with alkyl phenols, paraformaldehyde and pentaerythritol
P–01–0869	08/28/01	11/26/01	CBI	(G) Destructive use	(G) Acrylic polymer
P–01–0870	08/28/01	11/26/01	CBI	(G) Open, non-dispersive use	(G) Acrylic non-aqueous dispersion
P–01–0871	08/29/01	11/27/01	Pilot Chemical Company	(S) Demulsifier / corrosion inhibitor for industrial lubricants	(G) Alkyl benzene sulfonic acid derivatives, alkyl amine salts
P–01–0872	08/27/01	11/25/01	CBI	(G) Fluid retention polymer	(G) Alkenoic acid, polymer with vinyl alkyl lactam, alkenamide, alkenyl propanesulfonic acid, neutralized.
P–01–0873	08/29/01	11/27/01	CBI	(S) Intermediate in finishing	(G) Aliphatic cyclocarbonate
P–01–0874	08/29/01	11/27/01	3M company	(S) Chemical intermediate	(G) Urethane polymer
P–01–0875	08/29/01	11/27/01	3M company	(G) Coating	(G) Urethane polymer salt
P–01–0876	08/29/01	11/27/01	CBI	(S) Latent curative for epoxy resin formulations	(G) Imidazole phosphate salt
P–01–0877	09/04/01	12/03/01	CBI	(S) Adhesives used for lamination assembly such as panels and walls	(G) Isocyanate terminated polyurethane resin
P–01–0878	09/05/01	12/04/01	Degussa Corporation	(G) Because of their silylfunctionality silanes (as dynasylan 9216) are chemical linked to the surface of oh-funtional solids (hydrophobation or reversal of surface polarity)	(S) Silane, hexadecyltriethoxy-
P–01–0879	09/05/01	12/04/01	Mitsubishi Pencil of America	(S) Component in ink used in pens	(S) 2-pyrrolidinone, 1-ethenyl-, trimer
P–01–0880	08/31/01	11/29/01	CBI	(G) Destructive use as a chemical intermediate	(G) Alkoxylated fatty amine
P–01–0881	09/05/01	12/04/01	CBI	(G) Paint remover ingredient	(G) Aliphatic urethane
P–01–0882	09/05/01	12/04/01	CBI	(G) Paint remover ingredient	(G) Aliphatic urethane
P–01–0883	09/05/01	12/04/01	CBI	(G) Paint remover ingredient	(G) Aliphatic urethane
P–01–0884	09/05/01	12/04/01	CBI	(G) Paint remover ingredient	(G) Aliphatic urethane
P–01–0885	09/06/01	12/05/01	CBI	(G) Component in lubricant for metal working applications	(G) Mixed esters of ethoxytriethanolamine polyol, and fatty acids
P–01–0886	09/06/01	12/05/01	CBI	(G) Additive in inks and coatings	(G) Polyester acrylate

I. 66 PREMANUFACTURE NOTICES RECEIVED FROM: 08/27/01 TO 09/14/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0887	09/06/01	12/05/01	CBI	(S) Acid dye for the coloration of anodized aluminum	(G) Chromate, [(substituted)[[(substituted)phenyl]azo] (substituted naphthalenesulfonato)] (substituted hydroxy) [[(substituted sulfophenyl)]azo](substituted naphthalenesulfonato)], sodium
P–01–0888	09/06/01	12/05/01	CBI	(S) Acid dye for the coloration of anodized aluminum	(G) Chromate, [(substituted)[[(substituted)phenyl]azo] (substituted naphthalenesulfonato)] (substituted hydroxy) [[(substituted sulfophenyl)]azo](substituted naphthalenesulfonato)], sodium
P–01–0889	09/06/01	12/05/01	CBI	(S) Acid dye for the coloration of anodized aluminum	(G) Chromate, [(substituted)[[(substituted)phenyl]azo] (substituted naphthalenesulfonato)] (substituted hydroxy) [[(substituted sulfophenyl)]azo](substituted naphthalenesulfonato)], sodium
P–01–0890	09/06/01	12/05/01	CBI	(S) Acid dye for the coloration of anodized aluminum	(G) Chromate, [(substituted)[[(substituted)phenyl]azo] (substituted naphthalenesulfonato)] (substituted hydroxy) [[(substituted sulfophenyl)]azo](substituted naphthalenesulfonato)], sodium
P–01–0891	09/06/01	12/05/01	CBI	(S) Acid dye for the coloration of anodized aluminum	(G) Chromate, [(substituted)[[(substituted)phenyl]azo] (substituted naphthalenesulfonato)] (substituted hydroxy) [[(substituted sulfophenyl)]azo](substituted naphthalenesulfonato)], sodium
P–01–0892	09/07/01	12/06/01	Triquest LP, Division of Chemfirst, Inc.	(G) Polymer used in electronics, adhesives and coatings manufacture.	(G) Polymer of substituted aromatic olefins and aliphatic olefins
P–01–0893	09/07/01	12/06/01	CBI	(G) Component of oil for synthetic fiber	(G) Glycerol, ethoxylated propoxylated ether, caprolactone copolymer
P–01–0894	09/07/01	12/06/01	CBI	(G) Component of oil for synthetic fiber	(G) Amines, ethoxylated propoxylated ether
P–01–0895	09/10/01	12/09/01	Degussa Corporation	(S) Coupling agent for rubber	(S) 3,16-dioxa-8,9,10,11-tetrathia-4,15-disilaoctadecane, 4,4,15,15-tetraethoxy-, reaction products with silica
P–01–0896	09/10/01	12/09/01	Arch Chemicals, Inc.	(S) Waterborne polyurethane ingredient	(G) Carboxyl polyol and triethylamine salt
P–01–0897	09/10/01	12/09/01	CBI	(G) Dispersant for composites	(G) Phosphated polyester
P–01–0898	09/10/01	12/09/01	Kelmar Industries	(S) Textile softener	(G) Grafted mercaptosiloxane(s)
P–01–0899	09/10/01	12/09/01	Kelmar Industries	(S) Textile softener	(G) Grafted mercaptosiloxane(s)
P–01–0900	09/10/01	12/09/01	CBI	(G) Corrosion inhibitor	(G) Carboxylic acid salt
P–01–0901	09/10/01	12/09/01	CBI	(G) Polymer additive	(G) Aromatic salts
P–01–0902	09/10/01	12/09/01	CBI	(G) Polymer additive	(G) Aromatic salts
P–01–0903	09/12/01	12/11/01	CBI	(G) Component of coatings, inks, adhesives etc.	(G) Polyurethane
P–01–0904	09/12/01	12/11/01	Degussa Corporation	(S) Mechanical rubber goods	(S) Silane, ethenyltriethoxy-, reaction products with silica
P–01–0905	09/06/01	12/05/01	ILford Imaging	(S) Dye for aqueous ink	(S) 1,3-naphthalenedisulfonic acid, 7-[[4-[[4,6-bis[(3-sulfopropyl)thio]-1,3,5-triazin-2-yl]amino]-3-methoxyphenyl]azo]-, tetrasodium salt
P–01–0906	09/13/01	12/12/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Saturated and unsaturated fatty acids, esters with a polyalcohol
P–01–0907	09/13/01	12/12/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Saturated and unsaturated fatty acids, esters with a polyalcohol
P–01–0908	09/13/01	12/12/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Saturated and unsaturated fatty acids, esters with a mono-alcohol
P–01–0909	09/13/01	12/12/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Saturated and unsaturated fatty acids, esters with a di-alcohol
P–01–0910	09/13/01	12/12/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Saturated and unsaturated fatty acids, esters with a mono-alcohol

I. 66 PREMANUFACTURE NOTICES RECEIVED FROM: 08/27/01 TO 09/14/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0911	09/13/01	12/12/01	CBI	(S) Lubrication basestock in automotive and industrial lubricants	(G) Saturated and unsaturated fatty acids, esters with a di-alcohol
P–01–0912	09/13/01	12/12/01	CBI	(G) Open destructive use as a gas generant for automotive inflators	(G) Metal ammine nitrate complex
P–01–0913	09/14/01	12/13/01	Brueggemann Chemical U.S., Inc.	(S) Polyamide crystallization accelerator	(S) Ethanedioic acid, diethyl ester, polymer with 1,2-ethanediamine
P–01–0914	09/14/01	12/13/01	CBI	(G) Polymer	(G) Acrylic polymer
P–01–0915	09/14/01	12/13/01	CBI	(G) Polymer	(G) Acrylic polymer
P–01–0916	09/14/01	12/13/01	CBI	(G) Polymer	(G) Acrylic polymer
P–01–0917	09/13/01	12/12/01	CBI	(G) Material for coating agent	(G) Methacrylic polymer
P–01–0918	09/13/01	12/12/01	CBI	(G) Sealant	(G) Substituted methoxysilane
P–01–0919	09/14/01	12/13/01	CIBA Specialty Chemicals Corporation	(S) Pigment for thermoplastic polymers	(G) Tetramine pyrimidine derivative
P–01–0920	09/14/01	12/13/01	Gateway Additive Company	(S) Cutting oils; industrial lubricants; metalworking fluids, soluble oil	(G) Polymer ester of mono and dibasic acids

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 37 NOTICES OF COMMENCEMENT FROM: 08/27/01 TO 09/14/01

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0117	09/10/01	08/29/01	(G) Mono-halo substituted alkene
P–00–0502	09/10/01	08/30/01	(S) Glycerides, $C_{14–22}$ and $C_{16–22}$-unsatd., ethoxylated propoxylated
P–00–0791	09/05/01	08/07/01	(G) Copolymer of styrene and methacrylic esters
P–00–0800	09/06/01	08/11/01	(G) Amine adduct of epoxy resin
P–00–1121	09/13/01	09/04/01	(G) Mixed metal oxide
P–00–1122	09/13/01	09/04/01	(G) Mixed metal oxide
P–00–1123	09/13/01	09/04/01	(G) Mixed metal oxide
P–00–1124	09/13/01	09/04/01	(G) Mixed metal oxide
P–00–1125	09/13/01	09/04/01	(G) Mixed metal oxide
P–00–1126	09/13/01	09/04/01	(G) Mixed metal oxide
P–01–0025	08/30/01	08/10/01	(G) Polyester polyurethane acrylate block copolymer
P–01–0038	09/07/01	08/20/01	(G) Alkyl phenyl siloxane
P–01–0039	08/30/01	08/21/01	(G) Dimethyl, methyl phenyl siloxane
P–01–0142	08/27/01	07/23/01	(G) Polyester polyol
P–01–0265	09/13/01	09/02/01	(G) Distillates (petroleum), steam-cracked, polymers with light steam-cracked petroleum conc.
P–01–0290	09/06/01	08/31/01	(G) Chelated metal complexes
P–01–0301	08/28/01	07/30/01	(G) Polyureapolyurethane polyol
P–01–0349	09/05/01	08/22/01	(G) Sorbitan derivative
P–01–0384	09/10/01	09/03/01	(G) Polyoxyalkylene, alkylene succinate polyester
P–01–0415	09/10/01	09/01/01	(G) Acrylic copolymer
P–01–0428	08/30/01	08/27/01	(S) 2-propenoic acid, 3-sulfopropyl ester, potassium salt
P–01–0483	08/28/01	08/17/01	(G) Modified melamine formaldehyde resin
P–01–0534	09/05/01	08/23/01	(G) Modified melamine
P–01–0557	09/05/01	08/23/01	(S) Lithium, hexyl-
P–01–0581	09/07/01	09/06/01	(G) (monosubstituted naphthalene azo) tri substituted naphthalene sulfonic acid, salt
P–01–0582	09/07/01	08/16/01	(G) (monosubstituted naphthalene azo) tri substituted naphthalene sulfonic acid, salt
P–01–0591	09/05/01	08/09/01	(G) Amino silanized silica
P–01–0592	08/29/01	08/23/01	(G) Carboxyl polyol
P–01–0648	09/06/01	08/30/01	(G) Organometallic complex
P–94–2035	09/10/01	09/06/01	(S) 2-nonen-1-ol, (z)-
P–95–0242	09/05/01	08/23/01	(G) Modified acrylonitrile-styrene resin
P–98–0111	09/10/01	08/27/01	(S) 3-cyclohexene-1-carboxylic acid, methyl ester
P–98–0828	09/04/01	07/12/01	(G) Modified polyester
P–99–0024	08/28/01	08/14/01	(G) Polyester polyurethane
P–99–0173	09/05/01	08/29/01	(G) Sodium dialkylbenzene sulfonate
P–99–0847	09/05/01	07/17/01	(G) Mixed metal oxide
P–99–0995	08/29/01	08/16/01	(G) Substituted bicyclic olefin

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: October 3, 2001.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–25971 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL RESERVE SYSTEM

[Docket No. R–1095]

Federal Reserve Bank Services; Private Sector Adjustment Factor

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has approved modifications to the method for calculating the Private Sector Adjustment Factor (PSAF), which imputes the costs that would have been incurred and profits that would have been earned had the Federal Reserve Banks' priced services been provided by a private firm. The Board considered several alternatives for calculating components of the PSAF and is modifying the current method for imputing debt and equity, enhancing the method for determining the target rate of return on equity, and continuing to use the fifty largest bank holding companies' financial data as a proxy for Federal Reserve priced-services activities. In a change from the proposal and current practice, the peer group will be selected based on total deposits rather than the size of asset balances. The revised method will be used to determine the PSAF and fees for Federal Reserve priced services beginning with the 2002 price setting.

FOR FURTHER INFORMATION CONTACT: Gregory L. Evans, Manager (202/452–3945) or Brenda L. Richards, Sr. Financial Analyst (202/452–2753), Division of Reserve Bank Operations and Payment Systems. For users of Telecommunication Device for the Deaf (TDD) only, please call 202/263–4869. Copies of a research paper describing the theoretical basis and detailed application of each of the models (''The Federal Reserve Banks' Imputed Cost of Equity Capital'') may be obtained from the Board through the Freedom of Information Office (202/452–3684) or at the Board's web site at *http://www.federalreserve.gov/boarddocs/press/boardacts/2000/200012212/researchpaper.pdf.*

SUPPLEMENTARY INFORMATION:

I. Background

As required by the Monetary Control Act of 1980, fees for Federal Reserve priced services provided to depository institutions are set at a rate to recover all direct and indirect costs of providing the services actually incurred and imputed costs. Imputed costs include financing costs, return on equity (also referred to as profit), taxes, and certain other expenses that would be incurred if a private business firm provided the services. The imputed costs and imputed profit are collectively referred to as the private-sector adjustment factor (PSAF). In a comparable fashion, revenue is imputed and netted with actual related direct costs through the net income on clearing balances (NICB) calculation.

Calculating the PSAF involves projecting the level of priced-services assets and determining the financing mix used to fund them and the rates used to impute financing costs. In the current method, the financing rates, the combination of financing types, and an income tax rate are based on data developed from the ''bank holding company (BHC) model,'' a model that contains consolidated financial data for the nation's fifty largest (based on asset balances) BHCs. Imputed taxes are captured using a pre-tax return on equity (ROE). The current methodology assumes that the Reserve Banks invest all clearing balances net of imputed reserve requirements in three-month Treasury bills. The net earnings or expense attributable to the imputed Treasury-bill investments and actual earnings credits granted to clearing balance holders based on the federal funds rate are considered income or expense for priced-services activities. The net income or expense is referred to as net income on clearing balances (NICB).

To evaluate the effect of changes that may have occurred in Reserve Bank priced-service activities, accounting standards, finance theory, regulatory practices, and banking activity, the Board periodically reviews the methods for calculating the PSAF and the NICB. To ensure that the method remains current and consistent with sound business management, the Board requested comments on a proposal to modify certain elements of the calculations (65 FR 82360, December 28, 2000). Specifically, the Board requested comment on the following changes to the PSAF:

- Imputed debt and equity: The Board proposed initially designating $4 billion of clearing balances as core deposits for potential use as a financing source for priced-services assets, thereby reducing the funds available for imputing investment income. The Board also proposed imputing equity at the minimum requirements for a well-capitalized institution as defined by the FDIC for purposes of assessing insurance premiums.
- Target return on equity (ROE): The Board proposed enhancing the method for determining the target rate of return on equity by combining the rate resulting from the current BHC model, one example of the comparable accounting earnings model (CAE), with rates derived from a discounted cash flow (DCF) model and a capital asset pricing model (CAPM). The Board proposed a risk-free rate and using specific data for determining the average risk premium for the market and the beta in the CAPM. For the DCF, the Board proposed using commercially available consensus forecasts to measure future dividends and long-term growth rates. The Board also proposed equal weights within the CAE model, weights based on market capitalization for the DCF and CAPM models, and a combined ROE measure based on equal weighting of the results of the three models.
- Peer group: The Board proposed continuing the current practice of selecting the largest fifty BHCs based on asset balance size as the Reserve Bank peer group.

II. Priced Services Balance Sheet

Table 1 represents the elements of the priced-services balance sheet and how they will be derived. All actual assets and liabilities presented on the priced-services balance sheet are based on projected average daily balances.

III. Summary and Analysis of Comments

The Board received ten responses to its request for comment, including responses from two Reserve Banks. Overall, eight commenters supported and two commenters opposed the Board's proposal. Those supporting the proposal represented credit unions, smaller depository institutions, and Reserve Banks. The Association of Bank Couriers and Fiserv, Inc. opposed the proposal. The Board received no comments from large banks or bank holding companies.

Those supporting the proposal believe that the proposed changes to the PSAF methodology are appropriate and will provide a better basis on which to impute the expenses and income used in setting Federal Reserve fees. Those in opposition object to using clearing

balances to finance priced services assets, the imputed equity level, certain aspects of the economic models, and the basis for selection of a peer group.

A. Imputed Debt and Equity

Currently short-term debt, long-term debt, and equity are imputed to the extent necessary to finance short-term and long-term assets without consideration of the Reserve Banks' clearing balance liability.[1] The cost for debt financing is determined using the short- and long-term debt rates from the BHC model. The apportionment of long-term asset financing between long-term debt and equity is based on the debt-to-equity ratio derived from the BHC model. The Board believes that these practices unnecessarily impute larger amounts of certain assets and liabilities and equity along with their related income and expenses to priced services. Considering the growth in the size of clearing balances since the inception of the NICB and the stable nature of the majority of the balances, the Board believes that rather than incur additional debt costs, a private business firm would use a portion of these balances to finance its capital needs.

In its request for comment, the Board proposed that initially $4 billion of clearing balances be designated as ''core'' and that these core balances be made available to finance long-term assets. The use of core clearing balances will effectively eliminate debt and reduce imputed investments in Treasury securities. The Board requested comment on whether this was a reasonable use of these balances, and asked that commenters who opposed initially establishing the $4 billion as core balances to suggest an alternative portion of the balances and a method for deriving the acceptable balance. In addition, the Board proposed basing the Reserve Bank priced-services equity balance on that required by the FDIC to be considered a well-capitalized institution.

One commenter challenged the Federal Reserve's statutory authority to integrate the PSAF and NICB calculations. Two commenters, including the commenter who challenged the Board's statutory authority, objected to the proposed use of core clearing balances to fund long-term assets. Another commenter stated that the $4 billion was too conservative and offered an alternative method for its calculation. Two commenters supported the Board's proposal to evaluate the balance of the core deposits annually, and one expressed support for the proposal provided that clearing balance requirements were not adjusted to facilitate the use of this core balance.

The basis for the objection of two commenters to the use of core clearing balances was essentially that clearing balances are short-term liabilities and should be used to finance only short-term assets. One comment stated that the Federal Reserve controls these balances based on the rate it offers to compensate depositors. Another offered that banking organizations attribute extended maturities to a portion of their core deposits, but the deposits are considered to finance longer-term financial assets, not prepaid pension assets and long-term fixed assets such as buildings, check sorters, and leasehold improvements. The commenter stated that these assets are typically financed with equity capital and long-term debt. This commenter also expressed concern with the proposal's creation of a negative working capital position (current assets minus current liabilities) for the priced-services balance sheet. Support for this concern was based on an analysis of six non-bank publicly held payments processors and their positive working capital positions.

One commenter objected to the Board's proposal to impute only the equity sufficient to meet the FDIC requirements to be considered a well-capitalized institution. The objection is based on the contention that this level of equity would not be acceptable and that bank holding company management maintains capital well above regulatory minimums. The commenter believes that the equity of the Federal Reserve priced services balance sheet should be closer to or should match that of commercial banks, which they estimate as close to 8 percent.

The Board has concluded that initially classifying $4 billion as core clearing balances to fund long-term priced services assets is a practical approach that treats these balances in a way private-sector providers would treat them. In addition, the Board has concluded that imputing equity based on FDIC requirements to be considered a well-capitalized institution provides adequate protection against uncertainties and is a prudent use of this financing source.

The Board considered the stability of clearing balances and the current level of priced-services assets. The balances have not dropped below $4 billion since 1992. In addition, the structure of the current priced-services balance sheet requires that only an insubstantial part of the balances be used to finance longer-term assets leaving the majority of these balances for investment in financial assets. A portion of all assets will be financed with equity. In considering how private business firms would use these balances, the Board believes that cash would be considered a fungible resource, but only after considering the interest rate risk presented by financing long-term assets at short-term rates. To address this risk and avoid inappropriate volatility in earnings, the Board will review the interest rate risk of long-term priced-services asset financing each year. The Board will evaluate the level of interest rate risk by reviewing the ratio of rate-sensitive assets to rate-sensitive liabilities and the effect on cost recovery of an increase or decrease in interest rates of up to 200 basis points. To control interest rate risk within acceptable levels, long-term debt will be imputed when the risk is estimated to exceed a change in cost recovery of more than two percentage points.

Although the amount of initial core balances may appear very conservative to some commenters, this level is more than sufficient to finance the current level of assets. The Board expects to review clearing balance trends periodically and the core amount will be adjusted if necessary. Consistent with current practice, the size of contracted clearing balances established by the Federal Reserve and depository institutions will be based on the level necessary for clearing and paying for services and will not be changed in order to increase the size of core balances in order to finance long-term assets.

The level of clearing balances maintained by depository institutions with the Reserve Banks increases or decreases based on the funds needed to process transactions. The compensation provided to depositors, earnings credits available to apply to future services, is based on these contracted balances and the federal funds rate. Although the rate is targeted by the Federal Reserve without consideration of the cost of earnings credits, it is set by the marketplace demand for short-term funds.

The Board's proposal for financing long-term assets with core clearing balances does, as a commenter indicated, create a negative working capital position. The commenter believes if the priced-services activities

[1] Depository institutions may hold both reserve and clearing balances with the Federal Reserve Banks. Reserve balances are held pursuant to regulatory requirements and are separate from the Reserve Banks' priced-services activities. Clearing balances, based on contractual agreements with Reserve Banks, are held to settle transactions arising from use of Federal Reserve priced services. In some cases, depository institutions hold clearing balances in excess of contractual agreements.

were a private-sector company, regulators would not look favorably on this position. A working capital comparison is not typically used in analyzing the financial condition of a depository institution. The liquidity of a depository institution is commonly reviewed using other measures that quantify the amount of cash or liquid assets and other funding sources (e.g., borrowings) available to meet expected cash demands at given time frames. Regulators define an entity's liquid assets as ''those assets which are readily available as cash or which can be converted into cash on an ''arm's-length'' basis without considerable loss.'' [2] The Board believes that the priced-services assets on the balance sheet, specifically the three-month Treasury securities, are sufficient to meet the liquidity needs of priced services.

When it requested comment, the Board noted the necessary integration of the PSAF and NICB calculations. The imputed income or expense resulting from the NICB calculation has historically been and will continue to be a part of determining priced-services revenue. Integration is necessary to reflect the reduction of clearing balances available for investment and the resulting reduction of the imputed income. The MCA states that fees must incorporate ''an allocation of imputed costs'' and that ''pricing principles shall give due regard to competitive factors.'' To consider the PSAF along with the cost of earnings credits included in the NICB without including the revenue from imputed investments would result in non-competitive pricing.

In evaluating the need for equity financing, one must consider the risk inherent in the assets being financed. Ignoring risk and imputing equity equal to the average equity of commercial banks, as proposed by one commenter, would be contrary to sound business decision-making. Equity dollars, typically the most expensive of financing sources, are actively managed by financial institutions. Regulators require a minimum level of capital to protect against insolvency or failure by offsetting or absorbing potential loses in the value of bank loans and investments, to protect against temporary losses of liquidity, and to ensure public confidence in the bank's ability to respond to shifts in economic conditions. Imputing equity to meet regulatory requirements for a well-capitalized institution results in a proposed capital to risk-weighted assets ratio of 27.7 percent for the priced-services balance sheet. The capital to risk-weighted ratios for the sample fifty BHCs are significantly lower, with none being greater than 15 percent. This ratio, combined with the liquidity of the imputed Treasury investments, is sufficient to protect against potential losses arising from changes in economic conditions or shifts in the value of investments. In general, the Board believes that a higher leverage ratio for BHCs reflects the increased risk experienced by these entities because of the financing activity in which they engage and that targeting an equity-to-asset ratio somewhat lower than the peer group average is appropriate for Federal Reserve priced services.

B. Imputed Return on Equity

Currently, the target return on equity is calculated based on the ROE results from the BHC model as an average of the ratios of the BHCs' net income and average book value of equity. This model can be duplicated and is readily accepted in industry practice. Its shortcomings, however, are that it uses historical data from the two to seven years before the target year to predict future earnings and it is based on book rather than market values.

The Board proposed that the PSAF target ROE be calculated using a combination of the current CAE model and two additional economic models, a capital asset pricing model and a discounted cash flow model. The Board requested comment on the economic models, their elements, the proposed methods for weighting and averaging them, and whether they are theoretically sound and should be used to calculate the PSAF.

The response from commenters was mixed regarding the theory, use, and components of each of the models. Although most commenters supported the use of the three models, the proposed weightings within the models, and the averaging of their outcomes, one commenter believes that the CAE should be weighted by organization size and another believes that it should be weighted by service revenue. One commenter criticized the CAE model because it could be distorted by credit losses unrelated to BHC processing activities. This same commenter believes that the thirty-year Treasury bond rate rather than three-month Treasury-bill rate should be used for the risk free rate in the CAPM. One commenter believes that the DCF should receive greater weight in the computation, while another believes that it is inappropriate to use the DCF in the calculation due to a perception that it ignores capital appreciation. Although there was support for the use of the CAE and CAPM models in the calculation, two commenters objected to using BHCs as the comparable group.

The Board has concluded that the three models will be used to calculate its priced-services target ROE and the calculation will be based on the proposed method. The models have a solid foundation in economic and finance theory and are regularly used in industry practice. This approach to calculating the target ROE is based on an understanding that each of the three models uses different information and has different strengths and weaknesses. Together the three models provide a measure that is more reliable, consistent, and forward-looking than using the CAE model alone. In addition, the proposed method brings in factors that affect competitors' return on equity that had not been previously considered with the CAE model, such as the results of changes in market conditions and risk.

The Board considered several methods for weighting within the models. The Board believes that the best and most common method is to weight based on market capitalization in the DCF and CAPM models and to maintain the current method of equal weighting for the CAE model. Weights based on organization size do not provide a more appropriate ROE than that provided with the equally weighted CAE. Weights based on service revenue could distort the resulting ROE because service revenue includes income from many activities that Reserve Banks do not provide and because depository institutions differ in the degree to which they use fees or balances to obtain compensation. For example, in comparable entities, payment for services can be assessed based on holding compensating balances rather than explicit fees. These varied approaches to assessing service revenue could affect the comparability of this information and could result in an inconsistent ROE measure over time.

The financial results used in the CAE model are obtained from publicly-available financial statements based on objective criteria. Availability and credibility of the financial data are important considerations in determining the structure of and peer group included in the model. If the data-gathering process included subjectively identifying and adjusting the financial results of each BHC in the model for activities that are not exactly comparable to priced services, the credibility of the calculation could be diminished. After careful consideration

[2] BHC Supervision Manual, December 1992, Section 4010.2.

of the comments, the Board believes that the BHC results as presented in audited financial statements provide a reasonable proxy for Federal Reserve priced services activities.

It is standard academic practice to use short-term Treasury rates, such as the three-month Treasury bill rate, in the implementation of the CAPM model. Any short-term rate chosen must be adjusted based on the time horizon of the analysis. A one-year rate is appropriate for the PSAF calculation because the implicit horizon of analysis is one year. Whether this one-year rate is based on the average of monthly, three-month, or one-year Treasury bill rates is insignificant because the market for Treasury securities is typically efficient enough to remove major pricing anomalies between securities of different maturities. This efficiency results in little difference between yields in the short term. Adopting a longer-term risk-free rate, such as the thirty-year Treasury rate, however, could not be supported given the one-year time horizon.

The contention that the DCF does not consider capital appreciation has been refuted in economic literature. The DCF does consider capital appreciation in its assumption that dividends will grow over time. The present value of a finite stream of dividends plus the present value of a future price of the stock is mathematically equal to the present value of an infinite stream of dividends.[3] The Board will include the DCF model in the PSAF calculation as proposed and weight it equally with the two other models.

C. Peer Group

The Board proposed maintaining the currently used BHC sample of the largest fifty, based on the size of asset balances, but asked whether this sample size continues to be a reasonable data peer group for Reserve Bank priced-services activities. In addition, the Board requested commenters' views on whether BHC data could be adjusted to resemble more closely the Reserve Bank priced-services activities.

Two commenters objected to the use of BHCs as the peer group and suggested using data processing and check processing organizations as the peer group. Two other commenters suggested that fewer BHCs would provide an adequate sample for the model and one suggested that a subgroup from the top fifty BHCs based on the relative importance of certain income accounts to total net income would provide a better proxy. One commenter suggested selecting the peer group based on service revenue.

The Board acknowledges that BHCs are an imperfect proxy for Federal Reserve priced services. The Board considered several alternatives and concluded that the services provided by data processing and check processing companies are not sufficiently analogous to priced-services activities of the Reserve Banks largely because they do not provide settlement services or hold correspondent or clearing balances. Although, in some cases it may be a small part of their overall business, BHCs do provide similar payment services, including settlement, and hold correspondent balances. Like BHCs, data processing and check processing companies also derive substantial income from lines of business in which Reserve Banks do not engage. In addition, obtaining the information for these processing companies necessary to compile the data needed in the three economic models would be difficult for the Board and for the public.[4] Use of non-audited financial information provided by these entities in the models could diminish the credibility of the results and create omissions or inconsistencies. In addition, there are significantly fewer data processors and check processors than BHCs, which would make it difficult to mitigate the effects of extreme financial performance of a few companies in the peer group.

Although reducing the sample size could reduce time and effort required for data gathering, the risk that the performance of a few BHCs could skew the model's results increases. Selecting the peer group based on service revenue would not create a better sample because, as noted, service revenue includes income from many activities that Reserve Banks do not provide. Further, in comparable entities, payment for services can be received based on holding compensating balances rather than assessing an explicit fee. These varied approaches to assessing service revenue could affect the comparability of this information.

After careful consideration of these and other alternatives, the Board concluded that the fifty largest BHCs provide a reasonable peer group for priced services. In a change from the proposal and current practice, the peer group will be selected based on total deposits rather than asset balance size. A peer group based on total deposits maintains the focus on the largest banking entities and avoids the distortion that could result from including financial holding companies on the basis of their other financial service activities and assets necessary to provide these services. Because of the changes in BHC structure made with the Gramm-Leach-Bliley Act of 1999, BHCs may engage more extensively in non-banking service activities than in the past.[5]

IV. Effects of New PSAF Methodology

The combination of the current equally-weighted CAE and the market-weighted DCF and CAPM models produces the following pre-tax ROE (pre-tax profit as a percent of imputed equity) based on the BHC performance data used for the 2001 PSAF:

PRE-TAX RETURN ON EQUITY

[In percent]

CAE	DCF	CAPM	Combined
23.8	22.1	23.3	23.1

From year to year, the combined model for calculating ROE can yield a target ROE that is higher or lower than the current method. On the average during the period from 1983 to 2001, the combined model yielded a pre-tax ROE that is 230 basis points higher than the current method.

Using core clearing balances as a source of financing for actual priced-services assets reduces imputed short- and long-term debt and imputed investments in marketable securities. As a result, the income and expenses associated with these imputed elements are reduced as well. Establishing equity at the level required by FDIC requirements for a well-capitalized institution results in setting equity equal to five percent of total assets, which is a slight reduction from the level planned in 2001 under the current methodology (5.3 percent). Applying the new PSAF methodology to the 2001 priced-services balance sheet reduces PSAF costs $53.3 million or 26 percent and reduces net income on clearing balances $33.8 million or 90 percent. This results in a net reduction of costs

[3] Sergei P. Dobrovolsky, *The Economics of Corporation Finance*, (New York: McGraw Hill Book Company, 1971), 81.

[4] One commenter believes that verifiable financial information for these entities could be obtained through industry associations. This would require the Federal Reserve to rely on data that has not been audited and to provide such financial information to the public. Further, consensus forecasts, used in the DCF model, are not available for entities that are not publicly held.

[5] Selecting the BHC sample based on total deposits rather than assets results in the change of two BHCs in the ranking. As these entities become more involved in providing non-banking services, the Board anticipates that the sample comparability will become more divergent.

to priced services of $19.5 million or slightly more than 2 percent of total actual and imputed costs, including the target ROE of $138.2 million.[6] Table 2 illustrates the effects of the changes on the various elements of the PSAF and NICB calculations.

V. Competitive Impact Analysis

All operational and legal changes considered by the Board that have a substantial effect on payment system participants are subject to the competitive impact analysis described in the March 1990 policy statement ''The Federal Reserve in the Payments System.''[7] Under this policy, the Board assesses whether the change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services because of differing legal powers or constraints or because of a dominant market position of the Federal Reserve deriving from such legal differences. If the fees or fee structures create such an effect, the Board must further evaluate the changes to assess whether their benefits—such as contributions to payment system efficiency, payment system integrity, or other Board objectives—can be retained while reducing the hindrances to competition.

Because the PSAF includes costs (with an adjustment for NICB net revenues or expenses) that must be recovered through fees for priced services, changes made to the method may have an effect on fees. This proposal is intended to refine the PSAF to resemble more closely the costs and profits of other service providers as required by the MCA. Consequently, the fees adopted by the Reserve Banks should be based on the costs and profit targets that are more comparable with those of other providers. Accordingly, the Board believes this proposal will not have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services.

VI. Conclusion

The Board has adopted the following modifications to the method for calculating the private sector adjustment factor (PSAF):

- An initial core amount of $4 billion of clearing balances will be available to finance priced-services assets. In the current environment, this eliminates the need to impute long-term debt. An interest risk sensitivity analysis will be performed each year and the Board will impute long-term debt if the results of the analysis indicate that an increase or decrease in interest rates of up to 200 basis points results in a reduction in cost recovery of more than two percentage points. In addition, the Board will annually review clearing balance trends and the core amount will be adjusted, if necessary.
- Equity will be imputed to meet the FDIC definition of a well-capitalized institution in its classification for assessing insurance premiums. Currently, this is five percent of total assets.
- The target return on equity will be determined using the results of three economic models.

—The results of the current CAE model will be combined with the results of the capital asset pricing model and the discounted cash flows model.

—A short-term Treasury-bill rate will be used as the risk-free rate and historical stock market data with a rolling ten-year period will be used in implementing the CAPM model.

—Commercially available consensus forecasts will be used to determine the expected future dividends and long-term growth rates in the DCF model.

—Within the CAPM and DCF models, the ROE will use weights based on market capitalization and within the CAE model, the ROE calculation will be based on equal weights. The results of the three models will then be averaged to derive the PSAF ROE.

- A peer group of the fifty largest bank holding companies based on total deposits will be used in each of the models.
- The revised method will be used to determine the 2002 PSAF and fees for Federal Reserve priced services.

TABLE 1.—PRICED-SERVICES BALANCE SHEET

[Projected average daily balance]

Assets	Type	Description	Method for computing
Required reserves	Imputed	Intended to simulate commercial bank reserve requirements.	10 percent of total clearing balances.
U.S. Treasury securities	Imputed	Represents the portion of clearing balances not required for reserves or to finance other actual or imputed priced-service assets.	Total liabilities plus equity less other assets.
Short-term assets	Actual	Accounts receivable, prepaid assets expenses, and materials and supplies reported on the Federal Reserve Banks' balance sheets that are attributed to priced services.	
Cash items in process of collection.	Actual	Transactions credited to the accounts of depository institutions, but not yet collected by the Federal Reserve Banks that are attributed to priced services.	
Pension assets.	Actual	Prepaid pension costs reported on the Federal Reserve Banks' balance sheets that are attributed to priced services.	
Long-term assets	Actual	Premises, furniture and equipment, leases, and leasehold improvements reported on the Federal Reserve Banks' and Board of Governors balance sheets that are attributed to priced services.	

[6] Under this proposal, priced-services revenue would be $944.7 million and expenses would be $951.5 million, resulting in a budgeted cost recovery of 99.3 percent as compared to 98 percent under the 2001 prices.

[7] FRRS 7–145.2.

TABLE 1.—PRICED-SERVICES BALANCE SHEET

[continued]

Liabilities and equity	Type	Description	Method for computing
Core clearing balances	Actual	The portion of clearing balances considered stable and available to finance long-term priced-service assets.	Total clearing balances required for financing long-term assets. Maximum core amount initially set at the lesser of $4 billion, which is the estimated amount of actual contracted clearing balances that have historically been stable, or the maximum amount available based on an analysis of interest rate risk sensitivity.
Non-core clearing balances.	Actual	Deposits of financial institutions maintained at Federal Reserve Banks for clearing transactions. Available to finance short-term priced service assets..	Equal to total clearing balances used for financing long-term assets
Short-term payables	Actual	The portion of sundry items payable, earnings credits due depository institutions, and accrued expenses unpaid reported on the Federal Reserve Banks' balance sheets that is attributed to priced services.	
Deferred credits	Actual	The value of checks deposited with the Federal Reserve Banks, but not yet credited to the accounts of the Reserve Banks' depositors.	
Postemployment/Post-retirement liability.	Actual	The portion of post-retirement benefits due reported on the Federal Reserve Banks' balance sheets that is attributed to priced services.	
Long-term debt	Imputed	An amount imputed when equity and core clearing are not sufficient to finance long-term priced-services assets.	Equal to the larger of zero or long-term and pension assets postemployment/postretirement liability, core clearing balances, and equity.
Equity	Imputed	The minimum level of equity necessary to meet FDIC requirements for a weighted well-capitalized institution.	The greater of five percent of total assets or 10 percent of risk-weighted assets.

BILLING CODE 6210–10–P

Table 2
2001 Effects of PSAF Methodology Changes
($ millions)

Balance Sheet			
	Current	New	Change
Required Reserves	$742.4	$742.4	$0.0
U.S. Treasury Securities	6,681.9	6,117.8	(564.1)
Short Term Assets	104.3	104.3	0.0
CIPC	3,606.7	3,606.7	0.0
Pension Assets	718.5	718.5	0.0
Long Term Assets	676.9	676.9	0.0
Total Assets	$12,530.7	$11,966.6	($564.1)
Clearing Balances	$7,424.3	$7,424.3	$0.0
Short-Term Payables	85.4	85.4	0.0
Short-Term Liabilities	18.9	0.0	(18.9)
Deferred Credits	3,606.7	3,606.7	0.0
Postemployment/retirement Liability	251.9	251.9	0.0
Long-Term Liabilities	479.1	0.0	(479.1)
Equity	664.4	598.3	(66.1)
Total Liabilities & Equity	$12,530.7	$11,966.6	($564.1)
Capital to Risk-Weighted Assets	30.8%	27.7%	
Capital to Total Assets	5.3%	5.0%	
PSAF			
	Current	New	Change
Target Pre-Tax ROE	24.0%	23.1%	-0.9%
Cost of			
Equity	$159.5	$138.2	($21.3)
Long-term Debt	31.1	0.0	(31.1)
Short-term Debt	0.9	0.0	(0.9)
FDIC Insurance	0.0	0.0	0.0
Sales Taxes	10.5	10.5	0.0
BOG Oversight	4.9	4.9	0.0
Total PSAF	$206.9	$153.6	($53.3)
NICB			
	Current	New	Change
Return on Investment	$399.6	$365.8	($33.8)
Cost of Earning Credits	(361.9)	(361.9)	0.0
NICB	$37.7	$3.9	($33.8)
Net Effect of New Methodology			
	Current	New	Change
PSAF	$206.9	$153.6	($53.3)
NICB	37.7	3.9	(33.8)
Net Cost	**$169.2**	**$149.7**	**($19.5)**

Details may not add to totals due to rounding.

By order of the Board of Governors of the Federal Reserve System, October 9, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–25833 Filed 10–15–01; 8:45 am]

BILLING CODE 6210–01–C

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—09/17/2001			
20012347	Johnson & Johnson	Zeltia, S.A	PharmaMar, S.A
20012392	The News Corporation Limited	The News Corporation Limited	Speedvision Network, LLC and Cable Network Services, LLC.
Transactions Granted Early Termination—09/18/2001			
20012322	CommScope, Inc	Lucent Technologies, Inc	Lucent Technologies Optical Fiber Solutions Inc. Lucent Technologies/Sviastroy-1Fiber Optic Cable Company.
20012323	Lucent Technologies, Inc	CommScope, Inc	CommScope, Inc
20012361	Anthem Insurance Companies, Inc	Blue Cross and Blue Shield of Kansas, Inc.	Blue Cross and Blue Shield of Kansas, Inc.
20012369	Legg Mason, Inc	Charles M. Royce	Royce & Associates, Inc.
20012386	Edward C. Ritz	Charles R. Wolf	Fox Photo, Inc., a Delaware corporation. Wolf Camera Inc., a Georgia corporation. Wolf Express.Com, LLC, a Georgia limited liability company.
20012395	Roadway Corporation	Arnold Industries, Inc	Arnold Industries, Inc.
20012397	Solectron Corporation	Iphotonics, Inc	Iphotonics, Inc.
20012403	Carso Global Telecom, S.A. de C.V	Grupo Carso, S.A. de C.V	The Telvista Company.
20012408	E*TRADE Group, Inc	Dempsey & Company LLC	Dempsey & Company LLC.
20012410	KKR 1996 Fund L.P	PRIMEDIA Inc	PRIMEDIA Inc.
20012413	Warburg Pincus Private Equity VIII, L.P	Triangle Pharmaceuticals, Inc	Triangle Pharmaceuticals, Inc.
20012417	J.D. Edwards & Company	YOUcentric, Inc	YOUcentric, Inc
20012421	Glencoe Capital Partners II, L.P	ProQuest Company	Bell & Howell Company, A Delaware Corporation. Bell & Howell Company, Nevada Corp. Bell & Howell Financial Services Co. Bell & Howell Mail and Messaging Tech Company. Bell & Howell Mailmobile Co., Bell & Howell Postal System In.
Transactions Granted Early Termination—09/19/2001			
20012001	Polycom, Inc	Pictures Tel Corporation	Pictures Tel Corporation.
20012337	Heartland Industrial Partners, L.P	Textron Inc	Permali do Brasil Industria e Comercio Ltda. Textron Automotive B.V. Textron Automotive Belgium B.V.B.A. Textron Automotive Exteriors, Inc. Textron Automotive Holdings Italy S.r.l Textron Automotive Interiors Inc. Textron Automotive MIP Limited. Textron Canada Limited. Textron Properties Inc. Textron S.A. de C.V.
20012338	Textron Inc	Heartland Industrial Partners, L.P	Collins & Aikman Corporation.
20012396	Eli Lilly and Company	Jeanne-Marie Lecomte	Bioproject, Societe Civile de Recherche.
20012422	TEPPCO Partners, L.P	Alberta Energy Company Ltd	Jonah Gas Gathering Companpy.
Transactions Granted Early Termination—09/21/2001			
20011675	Foster Poultry Farms, Inc	Zacky farms	Zacky Farms.
20012370	Sony Corporation	Sony Ericsson Joint Venture Company	Sony Ericsson Joint Venture Company.
20012373	Telefonakiebolaget LM Ericsson	Sony Ericsson Joint Venture Company	Sony Ericsson Joint Venture Company.

Trans #	Acquiring	Acquired	Entities
20012398	VINCI S.A	TBI plc	TBI plc.
20012390	VINCI S.A	Castle Harlan Partners III, L.P	TBI plc. WFS Holdings, Inc.
20012412	United Grain Growers Limited	Agricore Cooperative Ltd	Agricore Corporation
Transactions Granted Early Termination—09/24/2001			
20012318	Furukawa Electric Co., Ltd	Lucent Technologies Inc	Lucent Denmark I/S. Lucent Technologies Denmark Holdings ApS. Lucent Technologies Inc. Lucent Technologies Lycom ApS. Lucent Technologies Optical Fiber Solutions Inc. Lucent Technologies Optical Speciality Fibers Inc. Lucent Technologies Yazaki Ltd. Lucent Technologies/Sviazstroy-1 Fiber Optic Cable Company J.
20012378	Sumner M. Redstone	K. Rupert Murdoch	Fox Television Stations, Inc.
20012379	K. Rupert Murdoch	Sumner M. Redstone	Paramount Stations Group of Washington Inc.
20012381	Devon Energy Corporation	Mitchell Energy & Development Corp	Mitchell Energy & Development Corp
20012382	George P. & Cynthia W. Mitchell	Devon Energy Corporation	Devon Energy Corporation.
20012433	Devon Energy Corporation	Anderson Exploration Ltd	Anderson Exploration Ltd.
Transactions Granted Early Termination—09/26/2001			
20012358	Nextel Communications	Pacific Wireless Technologies, Inc	Pacific Wireless Technologies, Inc.
20012409	Southwire Company	General Cable Corporation	General Cable Industries, Inc.
20012428	Genesis Health Ventures, Inc	Genesis ElderCare Corp	Genesis ElderCare Corp.
Transactions Granted Early Termination—09/27/2001			
20012363	Tollgrade Communications, Inc	Lucent Technologies Inc	Lucent Technologies Inc.
20012375	Nippon Suisan Kaisha, Ltd	Unilever N.V	Conopco, Inc., U L Canada, Inc.
20012401	Newell Rubbermaid Inc	Albert Cheris	Tenex Corporation.
20012425	eFunds Corp	ATM Holding, Inc	Access Cash International LLC.
20012426	Morgan Stanley Dean Witter Capital Partners IV, L.P.	Triad Hospitals, Inc	Triad of Arizona L.P., Inc.
20012430	Santa Fe International Corporation	Global Marine Inc	Global Marine Inc.
20012434	Reed International P.L.C	CourtLink Corporation	CourtLink Corporation.
20012435	Elsevier NV	CourtLink Corporation	Courtlink Corporation.
20012436	Solectron Corporation	C-Mac Industries Inc	C-Mac Industries Inc.
Transactions Granted Early Termination—09/28/2001			
20012388	Fortis (NL) N.V	Protective Life Corporation	Protective Life Insurance Company.
20012420	Limestone Electron Trust	Dean Vanech	Delta Power Company, LLC Ponderosa Pine Energy Partners, Ltd.
20012424	e-MedSoft.com	W. Andrew Wright	Addus Healthcare, Inc.
20012429	The Goldman Sachs Group, Inc	Genesis Health Ventures, Inc	Genesis Health Ventures, Inc
20012453	Flextronics International Ltd	Instrumentation Engineering, Inc	Instrumentation Engineering, Inc
20012455	CCG Investments (BVI), L.P	MERANT plc	MERANT plc.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Parcellena P. Fielding, Contact Representatives; Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–25983 Filed 10–15–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 0123151]

FanBuzz, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Coment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent greement—that would settle these allegations.

DATES: Comments must be received on or before November 11, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, FTC/S–4302, 600 Pennsylvania Ave., NW., Washington, DC (202) 326–3010.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 11, 2001), on the World Wide Web, at ''http://www.ftc.gov/os/2001/10index. htem.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent FanBuzz, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the sale of textile products by means of an Internet catalog. The Commission's complain charges that respondent violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.,* and the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.,* by failing to disclose in its Internet catalog whether products offered for sale were made in the United States, imported, or both.

Part I of the proposed consent order prohibits future violations of the Textile Fiber Products Identification Act and Commission rules and regulations, found at 16 CFR Part 303, implementing the requirements of the statute.

Part II of the proposed order requires the respondent, for five years after the date of issuance of the Order, to maintain records demonstrating compliance with the Order, including: (a) Copies of mail order catalogs and mail order promotional materials, as defined in 16 CFR 303.1(u), that offer textile products for direct sale to consumers; and (b) complaints and other communications with consumers, government agencies, or consumer protection organizations, pertaining to country-of-origin disclosures for textile products.

Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials and employees. Part IV of the proposed order requires the respondent to notify the Commission of any change in the corporation that may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comments on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–25982 Filed 10–15–01; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–55–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Pulmonary Function Testing Course Approval Program, 29 CFR 1910.1043 (OMB No. 0920–0138)—EXTENSION—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

NIOSH has responsibility under the Cotton Dust Standard, 29 CFR 1910.1043, for approving courses to train technicians to perform pulmonary function testing in the Cotton Dust Industry. Successful completion of a NIOSH-approved course is mandatory under the Standard. To carry out its responsibility, NIOSH maintains a Pulmonary Function Testing Course Approval Program. The program consists of an application submitted by potential sponsors who seek NIOSH approval to conduct courses, and if approved, notification to NIOSH of any course or faculty changes during the period of approval. The application form and addend materials, including agenda, vitae and course materials, is reviewed by the National Institute for Occupational Safety and Health to determine if the applicant has developed a program which adheres to the criteria required in the Standard. Following approval, any subsequent changes to the course are submitted by course sponsors via letter and reviewed by NIOSH staff to assure that changes in faculty or course content continue to meet course requirements. Applications and materials to be a course sponsor and carry out training are submitted voluntarily by institutions and organizations from throughout the country. This is required for NIOSH to evaluate a course to determine whether it meets the criteria in the Standard and whether technicians will be adequately trained as mandated under the Standard. The estimated annual burden hours for this data collection is 66 hours.

Respondents	Number of respondents	Number of responses	Avg. burden/response (in hrs.)
Initial Application	5	1	3.5
Annual Letter	53	1	45/60
Report of Course Changes	12	1	45/60

Dated: October 10, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–25951 Filed 10–15–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KA, Office of the Assistant Secretary for Children and Families (OAS) as last amended January 2, 1998 (63 FR 81–87) and Chapter KP, Office of the Deputy Assistant Secretary for Administration (ODASA) as last amended February 27, 2001 (66 FR 12525–28) and April 9, 2001 (66 FR 18487). This notice realigns the Executive Secretariat Office from the Office of the Deputy Assistant Secretary for Administration to the Office of the Assistant Secretary for Children and Families.

These Chapters are amended as follows:

I. Chapter KA, Office of the Assistant Secretary for Children and Families.

A. Delete KA.10 Organization in its entirety and replace with the following:

KA.10 Organization. The Office of the Assistant Secretary for Children and Families is headed by the Assistant Secretary who reports directly to the Secretary and consists of:

—The Office of the Assistant Secretary (KA).
—President's Committee on Mental Retardation Staff (KAD).
—The Executive Secretariat Office (KAF).

B. Amend KA.20 Functions to add the following new paragraph:

C. The Executive Secretariat Office (ExecSec) ensures that issues requiring the attention of the Assistant Secretary, Deputy Assistant Secretaries and/or executive staff are addressed on a timely and coordinated basis and facilitates decisions on matters requiring immediate action including White House, Congressional and Secretarial assignments. The Office serves as the ACF liaison with the HHS Executive Secretariat. It receives, assesses and controls incoming correspondence and assignments to the appropriate ACF component(s) for response and action and provides assistance and advice to ACF staff on the development of responses to correspondence. The Office provides assistance to ACF staff on the use of the controlled correspondence system. The Office coordinates and/or prepares congressional correspondence; and tracks development of periodic reports and facilitates departmental clearances. The Director of the Executive Secretariat Office serves as the Freedom of Information Act Officer for ACF and coordinates hot line calls received by the Office of Inspector General and the General Accounting Office relating to ACF operations and personnel.

II. Chapter KP, Office of the Deputy Assistant Secretary for Administration.

A. Delete KP.00 Mission in its entirety and replace with the following:

KP.00 Mission. The Deputy Assistant Secretary for Administration serves as principal advisor and counsel to the Assistant Secretary for Children and Families on all aspects of personnel administration and management, information resource management, financial, grants policy and procurement issues, staff development and training activities, organizational development and organizational analysis, administrative services and facilities management and state systems policy. Oversees the ACF Equal Employment Opportunity and Civil Rights program and all special initiatives activities for ACF.

B. Amend KP.10 Organization to delete ''Executive Secretariat Office (KPG).''

C. Amend KP.20 Functions to delete paragraph G, in its entirety.

Dated: September 28, 2001.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. 01–25995 Filed 10–15–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0437]

Agency Information Collection Activities; Proposed Collection; Comment Request; New Animal Drugs for Investigational Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements for new animal drugs for investigational use.

DATES: Submit written or electronic comments on the collection of information by December 17, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor.

Collection of information is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 (c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

New Animal Drugs for Investigational Use—21 CFR Part 511 (OMB Control Number 0910– 0117)—Extension

FDA has the responsibility under the Federal Food, Drug, and Cosmetic Act (the act), for approval of new animal drugs. Section 512(j) of the act (21 U.S.C. 360b(j)), authorizes FDA to issue regulations relating to the investigational use of new animal drugs. The regulations setting forth the conditions for investigational use of new animal drugs have been codified at part 511 (21 CFR part 511). A sponsor must submit to FDA a notice of claimed investigational exemption (INAD), before shipping the new animal drug for clinical tests in animals. The INAD must contain, among other things, the following specific information: (1) Identity of the new animal drug, (2) labeling, (3) statement of compliance of any nonclinical laboratory studies with good laboratory practices, (4) name and address of each clinical investigator, (5) the approximate number of animals to be treated or amount of new animal drug(s) to be shipped, and (6) information regarding the use of edible tissues from investigational animals. Part 511 also requires that records be established and maintained to document the distribution and use of the investigational drug to assure that its use is safe, and that distribution is controlled to prevent potential abuse. The agency utilizes these required records under its Bio-Research Monitoring Program to monitor the validity of the studies submitted to FDA to support new animal drug approval and to assure that proper use of the drug is maintained by the investigator.

Investigational new animal drugs are used primarily by drug industry firms, academic institutions, and the government. Investigators may include individuals from these entities as well as research firms and members of the medical profession. Respondents to this collection of information are the persons who use new animal drugs investigationally.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
511.1(b)(4)	190	6	1,147	8	9,176
511.1(b)(5)	190	1.5	287	140	40,180
511.1(b)(6)	190	.005	1	250	250
511.1(b)(8)(ii)	190	.005	1	20	20
511.1(b)(9)	190	.16	30	8	240
Total					49,866

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
511.1(a)(3)	190	7.5	1,434	9	12,906
511.1(b)(3)	190	10	1,912	1	1,912
511.1(b)(7)(ii)	190	2	956	3.5	3,346
511.1(b)(8)(i)	190	4	956	3.5	3,346
Total					21,510

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the time required for reporting requirements, record preparation, and maintenance for this collection of information is based on agency communication with industry. Additional information needed to make a final calculation of the total burden hours (i.e. the number of respondents, the number of recordkeepers, the number of INAD applications received, etc.) is derived from agency records.

Dated: October 9, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–25918 Filed 10–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0266]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Medical Device Registration and Listing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 14, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Device Registration and Listing—21 CFR 807.22 and 807.31 (OMB Control No. 0910–0387)—Extension

Section 510 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360) requires that manufacturers and initial importers engaged in the manufacture, preparation, propagation, compounding, assembly, or processing of medical devices intended for human use and in commercial distribution register their establishments and list the devices they manufacture with FDA. This is accomplished by completing FDA Form 2891 entitled ''Initial Registration of Device Establishment'' and FDA Form 2892 entitled ''Medical Device Listing.'' In addition, each year active, registered establishments must notify FDA of changes to the current registration and device listing for the establishment. Annual changes to current registration information are preprinted on FDA Form 2891a and sent to registered establishments. The form must be sent back to FDA's Center for Devices and Radiological Health, even if no changes have occurred. Changes to listing information are submitted on Form 2892. On August 14, 2001, all hospitals who reprocess single-use devices will be required to register and list their activities. Under the Food and Drug Administration Modernization Act of 1997, foreign manufacturers are now required to register their establishments and list their devices, but foreign registration and listing will be covered under a separate information requirement. FDA will also accept voluntary registration and listings from firms not covered above that wish to be registered with FDA.

In addition, under § 807.31 (21 CFR 807.31), each owner or operator is required to maintain a historical file containing the labeling and advertisements in use on the date of initial listing, and in use after October 10, 1978, but before the date of initial listing. The owner or operator must maintain in the historical file any labeling or advertisements in which a material change has been made anytime after initial listing, but may discard labeling and advertisements from the file 3 years after the date of the last shipment of a discontinued device by an owner or operator. Along with the recordkeeping requirements above, the owner or operator must be prepared to submit to FDA all labeling and advertising mentioned above (§ 807.31(e)).

The information collected through these provisions is used by FDA to identify firms subject to FDA's regulations and is used to identify geographic distribution in order to effectively allocate FDA's field resources for these inspections and to identify the class of the device that determines the inspection frequency. When complications occur with a particular device or component, manufacturers of similar or related devices can be easily identified.

The likely respondents to this information collection will be domestic establishments engaged in the manufacture, preparation, propagation, compounding, assembly, or processing of medical devices intended for human use and commercial distribution.

In the **Federal Register** of July 6, 2001 (66 FR 35642), the agency requested comments on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED YEAR 1 ANNUAL REPORTING BURDEN[1]

21 CFR Section	FDA Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
807.22(a)	Form 2891 Initial Establishment Registration	2,045	1	2,045	0.25	511
807.22(a) (hospital reuse manufacturers)	Form 2891 Initial Establishment Registration	2,000	1	2,000	0.25	500
807.22(b)	Form 2892 Device Listing—initial and updates	3,450	1	3,450	0.50	1,725
807.22(b) (hospital reuse manufacturers)	Form 2892 Device Listing—initial and updates	2,000	10	20,000	0.50	10,000
807.22(a)	Form 2891(a)—Registration Update	16,500	1	16,500	0.25	4,125
807.31(e)		200	1	200	0.50	100
Total year 1 burden hours						16,961

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED SUBSEQUENT YEARS ANNUAL REPORTING BURDEN[1]

21 CFR Section	FDA Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
807.22(a)	Form 2891 Initial Establishment Registration	2,245	1	2,245	0.25	561
807.22(b)	Form 2892 Device Listing—initial and updates	3,650	1	3,650	0.50	1,825
807.22(a)	Form 2891(a)—Registration Update	18,500	1	18,500	0.25	4,625
807.31(e)		200	1	200	0.50	100
Total year 2 and year 3 burden hours						7,111

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeper	Total Annual Records	Hours per Recordkeeper	Total Hours
807.31	9,900	10	99,000	0.50	49,500
Total burden hours					49,500

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

This year's submission has broken out annual costs into two distinct phases, and the tables above summarized the estimated annual reporting burden hours for medical device establishments to report in compliance with the provisions imposed by this regulation.

Hospital Reprocessing of Single-Use Medical Devices

On August 14, 2001, hospitals who reprocess single-use devices will be required to register their establishments and list those devices they reprocess. FDA has estimated that there will be approximately 2,000 such establishments that will fall into this category. The first year of the requirement will cause a one-time bolus of information to be submitted. FDA has separated the burden estimates into two tables to indicate year 1 (table 1 of this document) and subsequent year's estimates (table 2 of this document). Year 1 will include burden hours based on this bolus of submissions during the first year and subsequent year's estimates will indicate an adjustment for the new registrants for year 2 and beyond.

Burden Hour Explanation

The annual reporting burden hours to respondents for registering establishments and listing devices is estimated to be 16,961 hours, and recordkeeping burden hours for respondents is estimated to be 49,500 hours. The estimates cited in the tables above are based primarily upon the annual FDA accomplishment report, which includes actual FDA registration and listing figures from fiscal year (FY) 2000. These estimates are also based on FDA estimates of FY 2000 data from current systems, conversations with industry and trade association representatives, and from internal review of the documents referred to in the previous tables.

According to 21 CFR part 807, all owners/operators are required to list, and establishments are required to register. Each owner/operator has an average of two establishments, according to statistics gathered from FDA's registration and listing database. The database has 16,500 active establishments listed in it. Based on past experience, the agency anticipates that approximately 4,045 registrations will be processed during the first year (because of hospitals who reprocess single-use), and 2,045 registrations thereafter. The agency also anticipates that approximately 5,450 initial and update device listings will be submitted the first year (due to hospitals who reprocess single-use devices), and 3,450 thereafter. FDA anticipates reviewing 200 historical files annually. Finally, because initial importers (currently estimated at 6,200) do not have to maintain historical files and because of the addition of 2,000 hospitals who reprocess single-use medical devices, FDA estimates that the number of recordkeepers required to maintain the initial historical information will be 9,900.

Dated: October 9, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–25920 Filed 10–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0267]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Medical Device Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written or electronic comments on the collection of information by November 15, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Device Labeling—21 CFR Parts 800, 801, and 809

Section 502 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352), among other things, establishes requirements that the label or labeling of a medical device must meet so that it is not misbranded and subject to regulatory action. Certain of the provisions of section 502 of the act require that manufacturers, importers, and distributors of medical devices disclose information about themselves or their devices on the labels or labeling of the devices. Section 502(b) of the act requires that, if the device is in a package, the label must contain the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents. Section 502(f) of the act provides that the labeling of a device must contain adequate directions for use. FDA may grant an exemption from the adequate directions for use requirement, if FDA determines that adequate directions for use are not necessary for the protection of the public health.

FDA regulations in parts 800, 801, and 809 (21 CFR parts 800, 801, and 809) require manufacturers, importers, and distributors of medical devices to disclose to health professionals and consumers specific information about themselves or their devices on the label or labeling of their devices. FDA issued these regulations under the authority of sections 201, 301, 502, and 701 of the act (21 U.S.C. 321, 331, 352, and 371). Most of the regulations in parts 800, 801, and 809 derive from the requirements of section 502 of the act, which provides, in part, that a device shall be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the device, is false or misleading in any particular, or fails to contain adequate directions for use.

Sections 800.10(a)(3) and 800.12(c) require that the label of contact lens cleaning solutions contain a prominent statement alerting consumers to the tamper-resistant feature required by § 800.12.

Section 800.10(b)(2) requires that the labeling of liquid ophthalmic preparations packed in multiple-dose containers include information as to duration of use and necessary warnings to afford adequate protection from contamination during use.

Section 801.1 requires that the label of a device in package form contain the name and place of business of the manufacturer, packer, or distributor.

Section 801.5 requires that the labeling of devices include directions under which the layman can use a device safely and for the purposes for which it is intended. Section 801.4 defines intended use. Where necessary, the labeling should include: (1) Statements of all conditions, purposes, or uses for which the device is intended, unless the device is a prescription device subject to the requirements of § 801.109; (2) quantity of dose; (3) frequency of administration or application; (4) duration of administration or application; (5) time of administration, e.g., in relation to meals, onset of symptoms, etc.; (6) route of method or application; and (7) preparation for use.

Section 801.61 requires that the principal display panel of an over-the-counter device in package form must include a statement of the identity of the device. The statement of the identity of the device must include the common name of the device followed by an accurate statement of the principal intended actions of the device.

Section 801.62 requires that the label of an over-the-counter device in package form must include a declaration of the net quantity of contents. The label must express the net quantity in terms of weight, measure, numerical count, or a combination of numerical count and weight, measure, or size.

Section 801.109 establishes labeling requirements for prescription devices. A prescription device is defined as a device which, because of its potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to use the device and, therefore, for which adequate directions for use by a lay person cannot be developed.

Labeling must include information for use, including indications, effects, routes, methods, and frequency and duration of administration, and any relevant hazards, contraindications, side effects, and precautions under which practitioners licensed by law to administer the device can use the device safely and for the purpose which it is intended, including all purposes for which it is advertised or represented.

Section 801.110 establishes a labeling requirement for a prescription device delivered to the ultimate purchaser or user upon the prescription of a licensed practitioner. The device must be accompanied by labeling bearing the name and address of the licensed practitioner and the directions for use and cautionary statements, if any, contained in the order.

Section 801.405(b) establishes labeling requirements for articles intended for lay use in repairing and refitting dentures.

Section 801.410(f) requires that results of impact tests and description of the test method and apparatus be kept for a period of 3 years.

Section 801.420(c) requires that the manufacturer or distributor of the hearing aid develop a user instructional brochure, which accompanies the device and is provided to the user by the dispenser of the hearing aid.

Section 801.421(b) requires that the hearing aid dispenser provide the user a copy of the user instructional brochure.

Section 801.421(c) requires the hearing aid dispenser to provide, upon request, to the purchaser of any hearing aid dispensed a copy of the a user instructional brochure or the name and address of the manufacturer of distributor from whom the brochure may be obtained.

Section 801.421(d) requires the hearing aid dispenser to retain for 3 years from the time of dispensing copies of all physician statements or any waivers of medical evaluation.

Section 801.435(b) requires condom manufacturers to include an expiration date in the labeling of the condom. The manufacturer must support the expiration date by data from quality control tests.

Section 809.10(a) and (b) provide labeling requirements for in vitro diagnostic products including the label and a package insert.

Section 809.10(d) provides that labeling for general purpose laboratory reagents may be exempt from the labeling requirements in 809.10(a) and (b) under certain conditions.

Section 809.10(e) requires manufacturers of analyte specific reagents (ASRs) include specific information in their labeling.

Section 809.10(f) requires that labeling for over-the-counter test collection systems for drugs of abuse testing include specific information in their labeling.

Section 809.30(d) requires that manufacturers of ASRs assure that advertising and promotional materials for ASRs contain specific information.

These estimates are based on FDA's registration and listing database for medical device establishments, agency communications with industry, and FDA's knowledge of and experience with device labeling. We have not estimated a burden for those requirements where the information to be disclosed is information that has been supplied by FDA. Also, we have not estimated a burden for that information that is disclosed to third parties as a usual and customary part of a medical device manufacturer, distributor, or importer's normal business activities. We do not include any burden for time that is spent designing labels to improve the format or presentation.

From its registration and listing databases, FDA has determined that there are approximately 20,000 registered device establishments. About 2,000 of these are distributing over-the-counter devices. About 18,000 are distributing prescription devices. About 1,700 establishments are distributing in vitro diagnostic products.

In the **Federal Register** of July 11, 2001 (66 FR 36285), the agency requested comments on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
800.10(a)(3) and 800.12(c)	4	10	40	1	40
800.10(b)(2)	4	10	40	40	1,600
801.1	20,000	3.5	70,000	0.1	7,000
801.5	2,000	3.5	7,000	22.35	156,450
801.61	1,000	3.5	3,500	1	3,500
801.62	200	5	1,000	1	1,000
801.109	18,000	3.5	63,000	17.77	1,119,510
801.110	10,000	50	500,000	0.25	125,000
801.405(b)	40	1	40	4	160
801.420(c)	40	5	200	40	8,000
801.421(b)	10,000	160	1,600,000	0.30	480,000
801.421(c)	10,000	5	50,000	0.17	8,500
801.435	45	1	45	96	4,320
809.10(a) and (b)	1,700	6	10,200	80	816,000
809.10(d)	300	2	600	40	24,000
809.10(e)	300	25	7,500	1	7,500
809.10(f)	20	1	20	100	2,000
809.30(d)	300	25	7,500	1	7,500
Total					2,772,080

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
801.410(f)	30	769,000	23,070,000	0.0008	19,225
801.421(d)	9,900	162,160	1,600,000	0.25	400,000
Total					419,225

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates are based on FDA's registration and listing database for medical device establishments, agency communications with industry, and FDA's knowledge of and experience with device labeling. We have not estimated a burden for those requirements where the information to be disclosed is information that has been supplied by FDA. Also, we have not estimated a burden for that information that is disclosed to third

parties as a usual and customary part of a medical device manufacturer, distributor, or importer's normal business activities. We do not include any burden for time that is spent designing labels to improve the format or presentation.

Reporting

FDA believes that the labeling requirements of §§ 800.10(a)(3) and 800.12(c) impose a minimal burden. The label must alert consumers as to the tamper-resistant feature of the packaging. Four establishments label 40 different versions of contact lens cleaning solutions. Each manufacturer would most likely have a similar tamper-resistant feature for each of their products. FDA believes that 1 hour per product is a reasonable estimate.

These same four establishments would be subject to the requirements of § 800.10(b)(2). FDA estimates that it would take each establishment approximately 40 hours per year/per device to develop and revise, when necessary, the labeling required by this section.

The requirements of § 801.1 also impose a minimal burden. This section only requires the manufacturer, packer, or distributor of a device to include their name and address on the labeling of a device. Obviously, this is information readily available to the establishment and easily supplied. From its registration and listing databases, FDA estimates that there are 20,000 establishments that distribute approximately 70,000 devices.

Section 801.5 requires adequate directions for lay use of a device. This applies to over-the-counter devices. It does not apply to devices dispensed upon the prescription of a health professional for use by a lay person. Section 801.110 applies to labeling for those devices. Many of the devices that fall into this category would be fairly simple types of devices (dental floss, ice bags, canes, and crutches) that would require minimal labeling. On the average, FDA estimates that approximately half of these devices would require minimal labeling with a burden of 5 hours per year/per device (3,500 x 5 = 17,500) and that the other half would require an expenditure of approximately 40 hours per device/per year (3,500 x 40 = 140,000).

The requirements of § 801.61 apply to over-the-counter devices in package form. FDA estimates that there are 1,000 establishments distributing 3,500 types of these devices. FDA estimates that including the statement of identity in the labeling for these types of devices would require no more than 1 hour per type of device.

The requirements of § 801.62 also apply to over-the-counter devices in package form. Again, FDA estimates that this is a minimal requirement that imposes a burden of no more than 1 hour per year/per device.

The requirements of § 801.109 apply to prescription devices to be used by or on the order of a health care professional. The rule requires that the labeling provide adequate directions for use by health care professionals but exempts establishments from this requirement for devices for which the directions, hazards, warnings, and other information are well known to health care professionals. FDA estimates that there are 18,000 manufacturers distributing 63,000 such types of devices. FDA estimates that approximately 90 percent of these devices are of the type that would require minimal labeling information, e.g., surgical instruments well known to the health professional. These would require about 10 hours per year to develop the labeling. The other 10 percent of these devices would require somewhat more detailed labeling information. FDA estimates that firms would expend about 80 hours per device/per year to develop the labeling. The weighted average hourly burden per device/per year would be 17.77 hours. The annual burden then would be 1,119,510 hours (63,000 x 17.77).

Section 801.110 applies to the dispensing of a prescription device to a lay person by a health care professional. FDA assumes that the manufacturer or distributor would provide this information to a pharmacy or medical equipment supplier who would pass it on to the patient. The information would be readily available to the manufacturer or distributor and could be quickly passed on to the patient. FDA estimates that there are approximately 10,000 retail facilities dispensing 500,000 such devices per year. FDA estimates that a retail facility would expend about 15 minutes per device processing this information and providing it to the patient. The total annual burden would be 125,000 hours (500,000 devices x .25 hours per device).

From its registration and listing databases, FDA has determined that there are 40 establishments manufacturing, packing, or distributing the emergency denture kits covered by § 801.405(b). The requirements of this section are rather simple. FDA estimates that it will take each establishment 4 hours per device/per year to meet these requirements.

In estimating the burden for the requirement of preparing a user instructional brochure as required by § 801.420(c), FDA determined that there were 40 manufacturers of hearing aids in the Unites States and that the average manufacturer developed 5 new models requiring a brochure each year. FDA also determined that the manufacturer expended approximately 40 hours developing each brochure. This results in an annual burden of 8,000 hours for this requirement (40 manufacturers x 5 brochures x 40 hours).

Under provisions of § 801.421(b), FDA estimates that there are approximately 10,000 hearing aid dispensers who distribute 1,600,000 hearing aids each year. For all such sales, the dispenser must provide the prospective user a copy of the user instructional brochure and the opportunity to read and review the contents with him or her orally, or in the predominate method of communication used during the sale. FDA estimates that this exchange will involve 18 minutes (0.3 staff hours).

FDA estimates that approximately 10,000 hearing aid dispensers and manufacturers will provide copies of the user instructional brochure to any health care professional, user, or prospective user who requests a copy under § 801.421(c). FDA estimates that each of these 10,000 firms will receive approximately 5 requests per year. FDA estimates that the firm will require about 10 minutes (.17 staff hours) to complete each request. The effort consists of the hearing aid manufacturer or distributor or hearing aid dispenser locating the appropriate brochure and mailing it to the requester. Thus, the total burden for this collection is 8,500 hours (10,000 firms x 5 requests per year x .17 staff hours).

Through its registration database, FDA determined that there are approximately 45 manufacturers of condoms that would have to provide the labeling required by § 801.435. FDA then determined that it would take a manufacturer 10 staff hours to check the individual data points that it needs to check in order to complete the tests. Based upon comments from manufacturers in response to the proposed rule, FDA estimated that it would take each manufacturer approximately 96 hours per year to complete the tests required to establish an expiration date for their condom. Thus, the total burden is 4,320 hours (45 manufacturers x 96 hours).

From its registration and listing databases, FDA has determined that there are 1,700 establishments distributing 10,200 devices subject to the labeling requirements of § 809.10(a)

and (b). FDA estimates that, for each of these devices, an establishment would expend approximately 80 hours per year/per device developing and revising the labeling. This would make the annual burden 816,000 hours.

From its registration and listing databases, FDA has determined that there are approximately 300 establishments engaged in the manufacture and distribution of approximately 600 general purpose laboratory reagents subject to the labeling requirements in § 809.10(d). FDA estimates that these establishments would expend about 40 hours per year/per device developing and maintaining the labeling required by this section. This would result in an annual burden of 24,000 hours.

FDA estimates for each ASR it would take approximately 1 hour to design a new label to conform with § 809.10(e) and approximately 3 hours to review the new label through to chain of review, including legal and marketing people. As shown above, FDA estimates that the total hours to design/review labels is approximately 100 hours per respondent (25 x 4). The total hours to design/review labels are estimated at 30,000 (100 x 300). These estimates do not take into account economies of scale in designing and revising the labeling on ASRs. FDA estimates that entities work approximately 25 percent of that time ascertaining that the labeling meets the new requirements. Consequently, FDA estimates that the total number of reporting hour burden for designing/review of labeling is approximately 25 hours per respondent (100 x .25). FDA also estimates that the total reporting hour burden for § 809.10(e) is approximately 7,500 hours.

Based upon discussions with manufacturers, FDA estimates that it will take manufacturers of over-the-counter drugs of abuse test kits approximately 40 hours to gather the information required by § 809.10(f), another 40 hours to design and prepare the labeling, and an additional 20 hours per year to review and revise the labeling, as necessary. Thus, the total burden hours for preparing and reviewing labeling will be 100 hours per manufacturer. FDA estimates that there are 20 manufacturers of these devices. This will result in a total burden of 2,000 hours.

FDA estimates for each ASR it would take approximately 1 hour to rewrite the professional materials to ascertain compliance with § 809.30(d). FDA also estimates it would take approximately 4 hours to review rewritten materials through the chain of review, including legal and marketing people. As shown above, FDA estimates that the total number of hours to rewrite/review promotional materials is approximately 125 hours per respondent (25 x 5). The total reporting hours for all ASRs is estimated at 37,500 (125 x 300). This estimate does not take into account economies of scale. Often the promotional materials are a catalogue of products. FDA estimates that entities work approximately 20 percent of that time ascertaining that the promotional materials meet the new requirements. Consequently, FDA estimates that the total number of reporting hour burden for rewriting/reviewing promotional materials is approximately 25 (125 x .20) hours per respondent. FDA estimates that the total reporting hour burden for promotional materials is approximately 7,500 (37,500 x .20).

Recordkeeping

The Vision Council of America provided sales figures that were used to estimate the burden for § 801.410(f). Beginning in 1998, the vision industry has experienced a steady but declining growth rate of 2.6 percent for the distribution of lenses. It is assumed that this growth rate continued in 1999 and 2000. This resulted in an increase in the number of eyeglasses shipped annually to 89 million lenses shipped by the year 2000. The following sales figures were based on the above assumptions.

TABLE 3.—ANNUAL PERCENTAGE SALES IN EYEGLASS SHIPMENTS

Year	Sales (Millions)	Percent Change	Eyeglass Shipments
1998	15.8	+2.6 %	84.51
1999	16.2	+2.6 %	86.7
2000	16.6	+2.6 %	89.0

By also assuming that the glass/plastic lenses-produced ratio remained as in previous years (22 percent glass and 78 percent plastic), that glass lenses must be tested individually, and only 5 percent of the plastic lenses must be tested, then 23,070,000 lenses should be tested. This figure was derived by taking 22 percent of 89 million glass lenses (19,600,000) and adding it to 5 percent of the remaining plastic lenses (5% x 69,400,000 = 3,470,000).

Next, divide the total tests (23,070,000) by 30 manufacturers to return the annual frequency of recordkeeping figure of 769,000. Previously, FDA and industry experts estimated that, on average, each test could be completed and recorded in 3 seconds. Industry, therefore, could complete and record 1,200 tests per hour. It is estimated that the total burden for this collection is 19,225 hours, which is calculated by dividing the total records figure (23,070,000) by tests per hour (1,200). The hours per recordkeeper is calculated by dividing the total number of hours (19,225) by the number of manufacturers (30).

Under provisions of § 801.421(d), FDA estimates that 10,000 hearing aid dispensers dispense 1,600,000 hearing aids per year. Each record required by § 801.421(d) documents the dispensing of a hearing aid to a hearing aid user. FDA estimates that each recordkeeping entry requires approximately 0.25 staff hours. The total burden, then, is 400,000 hours (1,600,000 x 0.25).

Dated: October 10, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–25943 Filed 10–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0186]

International Conference on Harmonisation; Guidance on M4 Common Technical Document; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of guidance entitled ''M4 Organization of the Common Technical Document for the Registration of Pharmaceuticals for Human Use'' (M4 CTD). The guidance was developed under the auspices of the International Conference on Harmonisation of

Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance, which is being made available simultaneously in four parts (general organization, quality, safety, and efficacy), describes a harmonized format for new product applications (including applications for biotechnology-derived products) for submission to the regulatory authorities in the three ICH regions. The M4 CTD is intended to reduce the time and resources used to compile applications, ease the preparation of electronic submissions, facilitate regulatory reviews and communication with the applicant, and simplify the exchange of regulatory information among regulatory authorities.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, FAX 888–CBERFAX. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Requests and comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section of this document for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: For the safety (nonclinical) components: Joseph J. DeGeorge, Center for Drug Evaluation and Research (HFD–24), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5476, or David Green, Center for Biologics Evaluation and Research (HFM–579), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5349.

For the quality components: Charles P. Hoiberg, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2570, or Neil Goldman, Center for Biologics Evaluation and Research (HFM–20), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0372.

For the efficacy (clinical) sections: Robert Temple, Center for Drug Evaluation and Research (HFD–40), Food and Drug Administration, 9201 Corporate Blvd., Rockville, MD 20850, 301–594–6758, or Lou Marzella, Center for Biologics Evaluation and Research (HFM–582), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5080.

Regarding the ICH: Janet J. Showalter, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and, when possible, reduce differences in technical requirements.

ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. ICH is concerned with harmonization among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labor, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Therapeutics Products Programme, and the European Free Trade Area.

The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the three ICH regions. However, until recently, the format of the technical documentation in an application to market a new medicinal product in the three ICH regions had not been considered in the ICH process although there are substantial differences in the organization of product applications in different parts of the world. ICH, therefore, convened three Expert Working Groups (with expertise in quality, safety, and efficacy of human drug and therapeutic biological products) to develop harmonized guidance for the format of sections of a marketing application for a new medicinal product. This effort is called the ''common technical document.'' The resulting ICH guidance M4 CTD describes an acceptable format for applications for new human pharmaceuticals that (supplemented with regional particulars) can be used for submission to the regulatory authorities in each of the three ICH regions. The organization and format guidance provided in the M4 CTD is intended to be used together with information about the content of an application, which is provided in other ICH and FDA guidances.

In the **Federal Register** of February 11, 2000 (65 FR 7024), the agency announced the availability of initial components of the draft CTD guidance and requested public comment. Comments from that announcement were considered in developing a draft tripartite guidance, which was made available in the **Federal Register** of August 24, 2000 (65 FR 51621). The notice for the draft guidance gave interested persons an opportunity to submit comments by September 30, 2000.

To facilitate the process of making ICH guidances available to the public, the agency has changed its procedures for publishing ICH guidances. Since April 2000, we no longer include the text of ICH guidances in the **Federal Register**. Instead, we publish a notice in the **Federal Register** announcing the availability of an ICH guidance. The ICH guidance is placed in the docket and can be obtained through regular agency sources (see the **ADDRESSES** section of this document). Draft guidances are left in their original ICH format. Final guidances are reformatted and edited to

conform to the good guidance practices (GGP) style before publication.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in November 2000.

In accordance with FDA's GGP regulation (21 CFR 10.115), ICH guidance documents are now being called guidances, rather than guidelines.

II. The Common Technical Document

The M4 CTD guidance describes a harmonized format for new product applications (including applications for biotechnology-derived products) for submission to the regulatory authorities in the three ICH regions. The common technical document is intended to reduce the time and resources used to compile applications, ease the preparation of electronic submissions, facilitate regulatory reviews and communication with the applicant, and simplify the exchange of regulatory information among regulatory authorities.

The guidance addresses the organization of information presented in new product applications. With appropriate modifications, the guidance can also be applied to abbreviated or other applications. The guidance is not intended to indicate what studies should be included, but indicates an appropriate format for data that are submitted.

The common technical document should be viewed as the common part of a submission for new products, presented in a modular fashion with summaries and tables. It is intended that one of the modules (module I) in the common technical document be reserved as a region-specific module, and thus will not be harmonized.

The common technical document modular structure is envisioned as shown in the graphic at the end of this notice and the following table of contents for the document:

Module 1: Administrative Information and Prescribing Information
- 1.1 Table of Contents of the Submission Including Module 1
- 1.2 Documents Specific to Each Region (for example, application forms, prescribing information)

Module 2: Common Technical Document Summaries
- 2.1 CTD Table of Contents
- 2.2 CTD Introduction
- 2.3 Quality Overall Summary
- 2.4 Nonclinical Overview
- 2.5 Clinical Overview
- 2.6 Nonclinical Written and Tabulated Summaries
  - Pharmacology
  - Pharmacokinetics
  - Toxicology
- 2.7 Clinical Summary
  - Biopharmaceutics and Associated Analytical Methods
  - Clinical Pharmacology Studies
  - Clinical Efficacy
  - Clinical Safety
  - Synopses of Individual Studies

Module 3: Quality
- 3.1 Module 3 Table of Contents
- 3.2 Body of Data
- 3.3 Literature References

Module 4: Nonclinical Study Reports
- 4.1 Module 4 Table of Contents
- 4.2 Study Reports
- 4.3 Literature References

Module 5: Clinical Study Reports
- 5.1 Module 5 Table of Contents
- 5.2 Tabular Listing of All Clinical Studies
- 5.3 Clinical Study Reports
- 5.4 Literature References

The guidance being made available with this notice is the product of the ICH Common Technical Document Expert Working Groups for Quality, Safety, and Efficacy. To facilitate the handling of the guidance, it is being made available in four parts: (1) A description of the organization of the M4 CTD; (2) the Quality section; (3) the Safety, or nonclinical, section; and (4) the Efficacy, or clinical, section.

It should be noted that, as part of the ICH process, additional guidance is being developed to facilitate the submission of CTD applications using standardized electronic (computer) formats. This ''electronic CTD,'' or ''E–CTD,'' is an ultimate aim of current harmonization efforts in this area. There may be some modifications in the CTD format to facilitate the preparation and utility of the E–CTD, although substantive modifications are not anticipated.

This guidance represents the agency's current thinking on the organization and format of a common application for new products (i.e., the common technical document). It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

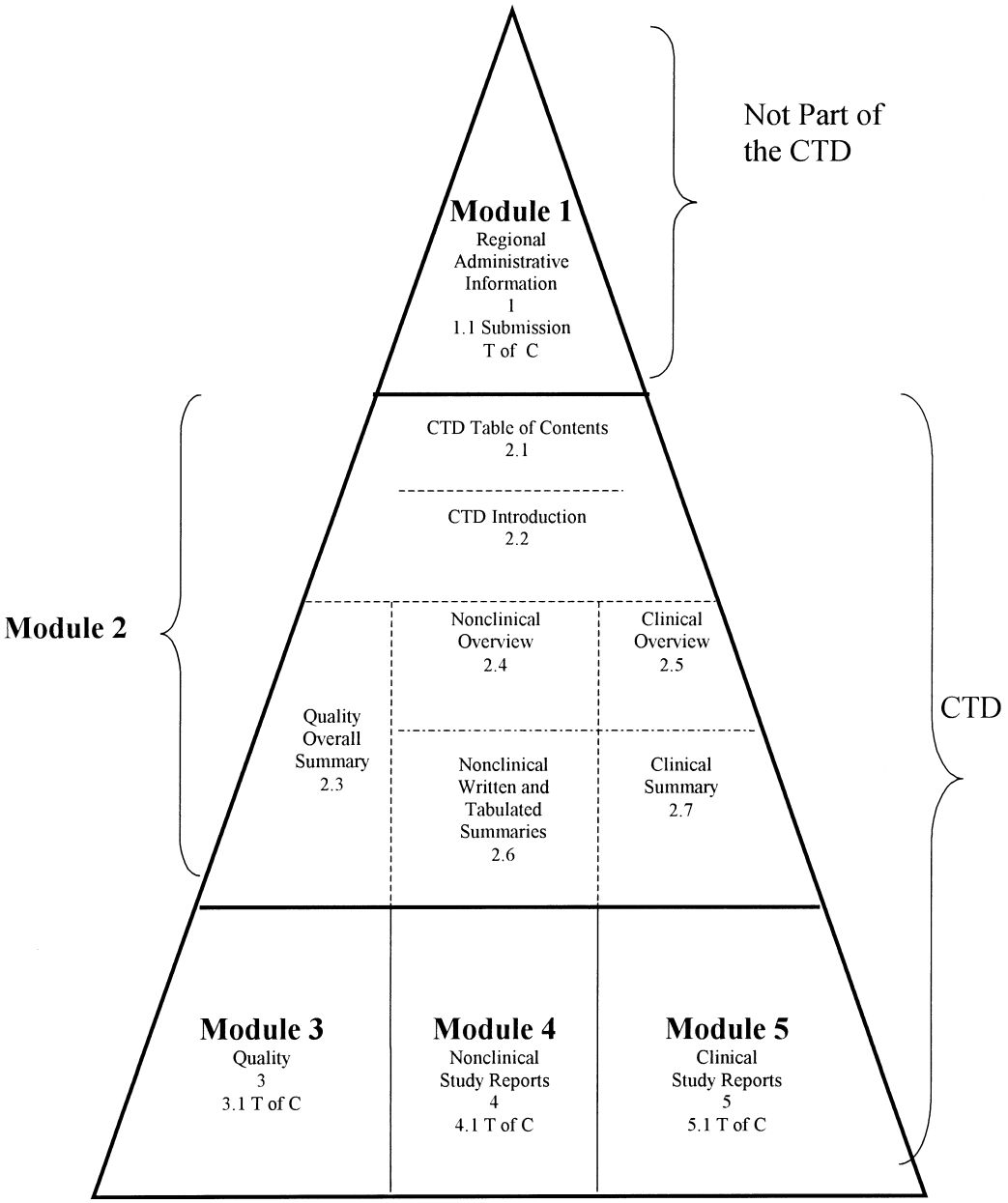
III. Comments

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments regarding the guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Copies of the guidance are available on the Internet at *http://www.fda.gov/ohrms/dockets/default.htm, http://www.fda.gov/cder/guidance/index.htm, or http://www.fda.gov/cber/publications.htm.*

Diagrammatic Representation of the ICH Common Technical Document



Dated: October 9, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–25921 Filed 10–15–01; 8:45 am]

BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee); Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee).

General Function of the Committee: To advise the Secretary and the Assistant Secretary for Health concerning its oversight of the conduct of the Ranch Hand study by the U.S. Air Force and provide scientific oversight of the Department of Veterans Affairs (VA) Army Chemical Corps Vietnam Veterans Health Study, and other studies in which the Secretary or the Assistant Secretary for Health believes involvement by the committee is desirable.

Date and Time: The meeting will be held on November 14, 2001, from 1 p.m. to 5:30 p.m., and November 15, 2001, from 8:30 a.m. to 4 p.m.

Location: Holiday Inn Select, 8120 Wisconsin Ave., Maryland Room, Bethesda, MD.

Contact: Leonard Schechtman, National Center for Toxicology Research (HFT–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6696, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12560. Please call the Information Line for up-to-date information on this meeting.

Agenda: The U.S. Air Force will present information on: Data release; cancer incidence; area under the curve; matched diabetes graphs; memory loss and peripheral neuropathy; thyroid abnormalities; and Seveso and Ranch Hand TCDD Half-Life. The Veterans Administration will provide an update on: The VA Army Chemical Corps Vietnam-Era Health Study including status of recruitment, interviewing, and medical record retrieval; documentation of self-reported health outcomes; results of serum dioxin analysis; and preliminary results of survey data analysis.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 2, 2001. Oral presentations from the public will be scheduled on November 15, 2001, between approximately 1 p.m. to 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 2, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 4, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–25919 Filed 10–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application To Amend West Fork Timber Company's Endangered Species Act Incidental Take Permit for Western Washington To Include Canada Lynx and Bull Trout

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public, other agencies, and Tribes that the Fish and Wildlife Service (Service) has received a request to add Canada lynx (*Lynx canadensis*) and bull trout (*Salvelinus confluentus*) to the list of species covered by Endangered Species Act incidental take permit PRT–777837, issued to the West Fork Timber Company, LLC (formerly Murray Pacific Corporation). This request is provided for under the Implementation Agreement for the Habitat Conservation Plan (Plan) accompanying the incidental take permit, dated September 24, 1993, and the Amendment to the Implementation Agreement, dated June 26, 1995. This request applies to forest management activities on West Fork Timber Company lands located in the Mineral Block of eastern Lewis County, west of the Cascade Mountain Range in the State of Washington (covered lands). The purpose of this notice is to seek comments from the public, other agencies, and Tribes on the Service's proposed permit amendment. We specifically request that comments be focused on substantive information relevant to bull trout and Canada lynx that could affect the Service's decision to amend this permit.

DATES: Written comments must be received on or before November 15, 2001.

ADDRESSES: Comments and requests for further information should be addressed to Ms. Andrea LaTier, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service, 510 Desmond Drive, SE., Suite 102, Lacey, Washington, 98503, phone (360) 753–9593, fax (360) 753–9518.

SUPPLEMENTARY INFORMATION:

Document Availability

All documents cited in this notice and comments received will be available for public inspection by appointment during normal business hours (8 a.m. to 5 p.m., Monday through Friday) at the office listed under **ADDRESSES.**

Background

On September 24, 1993, the Service issued incidental take permit PRT–777837 (permit) to the West Fork Timber Company (West Fork), pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1532 *et seq.*). The Plan and an Environmental Assessment associated with the original permit decision analyzed the effects that implementing the Plan would have on listed and unlisted species. The original permit authorized incidental take of the threatened northern spotted owl (*Strix occidentalis caurina*), in the course of otherwise legal forest management activities within the range of the northern spotted owl that occurs on the covered lands. This permit was amended on June 26, 1995, to authorize incidental take of listed species, in addition to the owl, that may occur on West Fork lands covered under the permit, with an Amendment to the Plan and an associated Environmental Assessment, which analyzed the effects to habitats of listed and unlisted species expected to result from amending West Fork's permit. Species covered by this first amendment to the permit included the marbled murrelet (*Brachyramphus marmoratus marmoratus*), bald eagle (*Haliaeetus leucocephalus*), grizzly bear (*Ursus arctos = U.a. horribilis*), and gray wolf (*Canis lupus*).

On March 24, 2000, the Service listed the Canada lynx as a threatened species throughout its range in the contiguous United States (65 FR 16051). The bull trout was listed as a threatened species throughout the coterminous United States on November 1, 1999 (64 FR 58909). On September 4, 2001, West Fork requested that the Canada lynx and bull trout be added to their permit. The Service is proposing to respond to this request and determine if adding the Canada lynx and bull trout to the West Fork permit is appropriate.

Pursuant to the Plan and Amended Plan (Plans), and the Implementation Agreement and Amended Implementation Agreement (Agreements), West Fork received assurances from the Service that additional species could be added to the permit upon their listing under the Act in accordance with the Plans and Agreements. The Amended Implementation Agreement states:

> The Incidental Take Permit for currently listed species addressed in the Amended Habitat Conservation Plan has been issued contemporaneously with the signing of this Amended Agreement. Thereafter, each species that may use the types of habitats which occur on the Permit Area and which is listed as threatened or endangered under the Endangered Species Act during the term of this Amended Agreement, shall be added to the Incidental Take Permit within 60 days of receipt by [the] Fish and Wildlife Service and National Marine Fisheries Services of a written request from Murray Pacific, unless within said 60-day period [the] Fish and Wildlife Service or National Marine Fisheries Service determines that adding such species to the Incidental Take Permit would appreciably reduce the likelihood of its survival and recovery in the wild because [the] Fish and Wildlife Service and National Marine Fisheries Service reasonably finds that relevant factors exist, including: (1) The size of the species' population or range is very small in relation to the Permit Area, (2) the percentage of the species' population or range adversely affected by the Amended Habitat Conservation Plan and Incidental Take Permit applicable to the Permit Area is very large in relation to the entire population or range of the species, (3) the ecological importance of the affected population or range is very significant, and (4) the adverse effects of the Amended Habitat Conservation Plan and Incidental Take Permit to the affected population or range would be very severe. If the relevant factors are found to exist, the responsible Agency in addition will determine whether a meaningful improvement in the likelihood of the species' survival in the wild can be achieved by additional mitigation in the reserve areas or other adjustments in the Amended Habitat Conservation Plan and Incidental Take Permit covering the Permit Area. Unless appropriated funds are not available, the responsible Agency shall provide the appropriate additional mitigation or other adjustments in a timely manner and amend the Incidental Take Permit to include the affected species. If appropriated funds are not available, the responsible Agency in a timely manner shall use all other available means, including non-governmental sources of funds and other alternative methods of mitigation or adjustment, to achieve the appropriate additional mitigation and amend the Incidental Take Permit to cover the particular species.

Therefore, according to the Agreements for the West Fork Plans, if any species that uses the habitats addressed in the Plans that was unlisted at the time of permit issuance subsequently becomes listed under the Act, West Fork may request a permit amendment to have the species added to their permit with respect to their covered lands. Under the terms of the Plans and Agreements, the Service would add the newly listed species to West Fork's permit without requiring additional mitigation unless the best scientific and commercial data available demonstrate that doing so would result in the appreciable reduction of the likelihood of the species' survival and recovery in the wild.

To determine whether adding bull trout and Canada lynx to the permit would appreciably reduce the likelihood of their survival and recovery in the wild, the Service will follow the section 7 consultation process under the Act. The Service will also determine whether this permit amendment meets each of the issuance criteria described in section 10(a)(2)(B) of the Act.

At this time, the Service is relying on the existing Environmental Assessments and subsequent section 7 Biological Opinions, which we incorporate by reference, as the analyses and conclusions therein are still accurate. These analyses and conclusions, in addition to any comments received as a result of this notice, the results of the section 7 consultation process, and the determination of compliance with the issuance criteria described in section 10(A)(2)(B) will form the basis upon which the decision to amend permit PRT–777837 will be made. Since these analyses and conclusions were made, the Service has learned more about the specific habitat requirements of both bull trout and Canada lynx. However, this information does not alter or invalidate the original analyses and conclusions. Therefore, the Service requests that comments specifically address any additional information regarding bull trout and Canada lynx that would preclude amending this permit.

In summary, Canada lynx are typically found in areas where its primary prey species, the snowshoe hare (Lepus americanus), occurs in relative abundance and areas that receive deep winter snows, both key elements to the survival of the species. Lynx occupy the boreal, sub-boreal and western montane forests of North America and use a variety of forest types. They forage in early-successional forests and den in mature forests. Resident animals primarily occupy high elevation landscapes containing a mosaic of successional vegetation stages necessary to satisfy their diverse habitat requirements. Dispersing individuals will travel through a range of elevations depending on the availability of prey.

The West Fork covered lands most likely to support the Canada lynx would be the higher elevation lands in proximity to Late Seral Reserves (LSRs) managed by the U.S. Forest Service that border West Fork's ownership. Within these LSRs the Service expects the amount of early seral forest to decrease while the amount of complex forest is expected to increase. Additional late seral forest is anticipated to develop on the West Fork covered lands due to conservation measures associated with the Reserve Areas set aside by West Fork for development of northern spotted owl habitat and functional riparian habitat.

Bull trout occupy a variety of habitat types during their life cycle but typically are associated with pools and large woody debris. Young-of-the-year are primarily bottom dwellers in shallow, slow backwater areas associated with large woody debris. Older individuals move to deeper and faster water, but are typically still associated with obstructive debris. Adults show a strong preference for deep, cold pools and are seldom found in streams with temperatures exceeding 18 degrees Celsius. At the present time, it is unlikely that bull trout inhabit any stream on the West Fork covered lands due to the presence of dams that prevent their migration into this area.

Should bull trout gain future access to the West Fork covered lands, the protected riparian habitat areas defined in the Plans are expected to gradually improve habitat conditions for this species. Results of the watershed planning activities conducted by West Fork on the covered lands should promote the development of large woody debris, increase shading, and decrease sediment inputs, all expected to favor bull trout colonization of the area. The anticipated lower fine sediment proportions in the substrate during the spawning season may also encourage use of the covered lands by bull trout.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and the regulations of the National Environmental Policy Act of 1969, as amended (40 CFR 1506.6). All comments that we receive, including names and addresses, will become part of the official administrative record and may be made available to the public. We will evaluate West Fork's request for an amendment and comments submitted thereon, along with the documents associated with the permit, to determine whether the application meets the requirements of the National Environmental Policy Act regulations and section 10(a) of the Endangered Species Act. If we determine that those requirements are met, we will amend permit PRT–777837 for incidental take of Canada lynx and bull trout. We will make our final decision no sooner than 30 days from the date of this notice.

Dated: October 1, 2001.

Rowan W. Gould,

Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 01–25952 Filed 10–15–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Thirty-Day Notice of Submission of Study Package to Office of Management and Budget—Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: The National Park Service (NPS) Social Science Program has submitted to the Office of Management and Budget (OMB) a request for clearance of an extended program of surveys of the public related to the mission of the NPS. The NPS is publishing this notice to inform the public of this program and to request comments on the program.

Since many of the NPS surveys are similar in terms of the population being surveyed, the types of questions being asked, and research methodologies, the NPS proposed to OMB and received clearance for a pilot program of approval for NPS visitor surveys (OMB #1024–0224 exp. 8/31/2001). The program presented an alternative approach to complying with the Paperwork Reduction Act (PRA). In the two years since the NPS received clearance for the program of expedited approval, 58 visitor surveys have been conducted in units of the National Park Service. The benefits of this program have been significant to the NPS, Department of the Interior (DOI), OMB, NPS cooperators, and the public. Significant time and cost savings have been incurred. Expedited approval was typically granted in 45 days or less from the date the Principal Investigator first submitted a survey package for review. This is a significant reduction over the approximate 6 months involved in the standard OMB approval process. It is estimated that the expedited approval process saved a total of 261 months in Fiscal Years 1999 and 2000. In two years, the expedited approval process has accounted for a cost savings to the federal government and PIs estimated at $92,250. The initial program included surveys of park visitors. The extended program will include surveys of park visitors, potential park visitors, and residents of communities near parks.

Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service is soliciting comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the NPS, including whether the information will have practical utility; (b) the accuracy of the NPS estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) the quality, utility, and clarity of the information to be collected; and (d) how 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 forms of information technology.

DATES: Public comments will be accepted on or before November 15, 2001.

SEND COMMENTS TO: Dr. Gary E. Machlis, Visiting Chief Social Scientist, National Park Service, 1849 C Street, NW., (3127), Washington, DC 20204.

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGE SUBMITTED FOR REVIEW, CONTACT: Dr. Gary E. Machlis, Voice: 202–208–5391, Fax: 202–208–4620, Email: *garymachlis@nps.gov.*

SUPPLEMENTARY INFORMATION:

Title: Programmatic Approval of NPS-Sponsored Public Surveys.

Bureau Form Number: None.

OMB Number: 1024–0224.

Expiration Date: To be requested.

Type of Request: Extension of a currently approved collection.

Description of Need: The National Park Service needs information concerning park visitors and visitor services, potential park visitors, and residents of communities near parks to provide park managers with usable knowledge for improving the quality and utility of park programs and planning efforts.

Automated Data Collection: At the present time, there is no automated way to gather this information, since the information gathering process involves asking the public to evaluate services and facilities that they used during their park visits, services and facilities they are likely to use on future park visits, perceptions of park services and facilities, and opinions regarding park management. The burden on individuals is minimized by rigorously designing public surveys to maximize the ability of the surveys to use small samples of individuals to represent large populations of the public, and by coordinating the program of surveys to maximize the ability of new surveys to build on the findings of prior surveys.

Description of Respondents: A sample of visitors to parks, potential visitors to parks, and residents of communities near parks.

Estimate Average Number of Respondents: The program does not identify the number of respondents because that number will differ in each individual survey, depending on the purpose and design of each information collection.

Estimated Average Number of Responses: The program does not identify the average number of responses because that number will differ in each individual survey, depending on the purpose and design of each individual survey. For most surveys, each respondent will be asked to respond only one time, so in those cases the number of responses will be the same as the number of respondents.

Estimated Average Burden Hours Per Response: The program does not identify the average burden hours per response because that number will differ from individual survey to individual survey, depending on the purpose and design of each individual survey.

Frequency of Response: Most individual surveys will request only 1 response per respondent.

Estimate Annual Reporting Burden: The program identifies the requested total number of burden hours annually for all of the surveys to be conducted under its auspices to be 15,000 burden hours per year. The total annual burden per survey for most surveys conducted under the auspices of this program

would be within the range of 100 to 300 hours.

Leonard E. Stowe,

Information Collection Clearance Officer, Acting WASO Administrative Program Center, National Park Service.

[FR Doc. 01–25933 Filed 10–15–01; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

USITC SE–01–033

Notice of Correction

Agency Holding the Meeting: United States International Trade Commission.

Time and Date: October 12, 2001 at 11:00 a.m.

Place: Room 101, 500 E Street S.W. Washington, DC 20436. Telephone: (202) 205–2000.

Status: Open to the public.

On October 3, 2001, the Commission issued the agenda for the above referenced meeting. In that notice the Commission inadvertently announced that Commissioners' opinions concerning Carbon and Alloy Steel Wire Rod from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Turkey, Ukraine, and Venezuela (Inv. Nos. 701–TA–417–421 and 731–TA–953–963 Preliminary) are currently scheduled to be transmitted to the Secretary of Commerce on November 2, 2001. The correct date for the Commissioners' opinions to be transmitted to the Secretary in these investigations is October 22, 2001.

Issued: October 11, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–26115 Filed 10–12–01; 12:46 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–01–034]

Sunshine Act Meeting

Agency Holding the Meeting: United States International Trade Commission.

Time and Date: October 18, 2001 at 2:00 p.m.

Place: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

Status: Open to the public.

Matters to be Considered:

1. Agenda for future meeting: none
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–739 (Review) (Clad Steel Plate from Japan)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on October 29, 2001.)
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: October 11, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–26116 Filed 10–12–01; 12:46 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

USITC SE–01–035

Sunshine Act Meeting

Agency Holding the Meeting: United States International Trade Commission.

Time and Date: October 22, 2001 at 2:00 p.m.

Place: Room 101, 500 E Street SW., Washington, DC 20436 Telephone: (202) 205–2000.

Status: Open to the public.

Matters to be Considered:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–365 and 731–TA–734–735 (Review)(Certain Pasta from Italy and Turkey)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on October 29, 2001.)
5. Inv. No. TA–201–73 (Injury Phase)(Steel)—briefing and vote. (The Commission is currently scheduled to transmit its recommendations to the President on December 19, 2001.)
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: October 11, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–26117 Filed 10–12–01; 12:46 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day Notice of information collection under review: revision of a currently approved collection workplace risk supplement.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by October 24, 2001. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Michael Rand, Bureau of Justice Statistics, 810 7th Street, NW, Washington DC 20531, or facsimile at (202) 307–1463.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(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:

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* Workplace Risk Supplement (WRS).

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* WRS–1.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals. The Workplace Risk Supplement will collect, analyze, publish, and disseminate statistics on workers' perceived risk of being victimized in the workplace and the specific tasks and work environments that place workers at risk of being victimized while at work or on duty within the United States.

Other: None.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* There are approximately 57,000 respondents at 0.167 (10 minutes) hours per interview.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 9,519 hours annual burden associated with this information collection.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW, Patrick Henry Building, Suite 1600, NW, Washington, D.C. 20530.

Dated: October 11, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 01–25994 Filed 10–15–01; 8:45 am]

BILLING CODE 4410–18–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 Marlene Howze at ((202) 693–4158 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, 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 functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics (BLS).

Title: CPS Displaced Worker, Job Tenure, and Occupational Mobility Supplement.

OMB Number: 1220–0104.

Affected Public: Individuals or households.

Frequency: Biennially.

Number of Respondents: 58,000.

Number of Annual Responses: 58,000.

Estimated Time Per Response: 10 to 15 minutes (with an average of 8 minutes)

Total Burden Hours: 7,733.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Current Population Survey (CPS) has been the principal source of the official Government statistics on employment and unemployment for nearly 60 years. Collection of labor force data through the CPS helps the Department of Labor meet its mandate as set forth in Title 29, United States Code, Sections 1 through 9. The information collected will evaluate the size and nature of the population affected by job displacements, and hence, the needs and scope of job training programs serving adult displaced workers. These data will measure the severity of the displacement problem and assess employment stability.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 01–25941 Filed 10–15–01; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meeting

TYPE: Open house and quarterly meeting.

AGENCY: National Council on Disability.

SUMMARY: This notice sets forth the schedules and proposed agendas of the upcoming open house and quarterly meeting of the National Council on Disability (NCD). Notice of these meetings is required under Section 522b(e)(1) of the Government in the Sunshine Act, (P.L. 94–409).

OPEN HOUSE DATE: November 5, 2001, 4:30 p.m. to 6 p.m.

LOCATION: National Council on Disability, 1331 F Street, NW, Suite 850, Washington, DC.

QUARTERLY MEETING DATES: November 5–6, 2001, 8:30 a.m. to 5 p.m.

LOCATION: Marriott Hotel at Metro Center, 775 12th Street, NW, Washington, DC; 202–737–2200.

FOR FURTHER INFORMATION CONTACT: Mark S. Quigley, Public Affairs, Specialist, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax).

AGENCY MISSION: NCD is an independent federal agency composed of 15 members appointed by the President and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, including people from culturally diverse backgrounds, regardless of the nature or significance of the disability; and to employer people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

ACCOMMODATIONS: Those needing sign language interpreters or other disability

accommodations should notify NCD at least one week prior to these meetings.

LANGUAGE TRANSLATION: In accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, those people with disabilities who are limited English proficient and seek translation services for these meetings should notify NCD at least week prior to these meetings.

MULTIPLE CHEMICAL SENSITIVITY ENVIRONMENT ILLNESS: People with multiple chemical sensitivity/environmental illness must reduce their exposure to volatile chemical substances to attend these meetings. To reduce such exposure, NCD requests that attendees not wear perfumes or scented products at these meetings. Smoking is prohibited in meeting rooms and surrounding areas.

OPEN MEETINGS: In accordance with the Government in the Sunshine Act and NCD's bylaws, this open house and quarterly meeting will be open to the public for observation, except where NCD determines tha a meeting or portion thereof should be closed in accordance with NCD's regulations pursuant to the Government in the Sunshine Act. A majority of NCD members present shall determine when a meeting or portion thereof is closed to the public, in accordance with the Government in the Sunshine Act. At meetings open to the public, NCD may determine when non-members may participate in its discussions. Observers are not expected to participate in NCD meetings unless requested to do so by an NCD member and recognized by the NCD chairperson.

OPEN HOUSE AGENDA: This is an opportunity for attendees to meet NCD members and staff and informally discuss current and emerging disability issues.

QUARTERLY MEETING AGENDA:

Reports from the Chairperson and the Executive Director

Committee Meetings and Committee Reports

Executive Session (closed)

Unfinished Business

New Business

Announcements

Adjournment

Records will be kept of all National Council on Disability proceedings and will be available after the quarterly meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on October 12, 2201.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–26064 Filed 10–12–01; 10:37 am]

BILLING CODE 6820–MA–M

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10 a.m., Thursday, October 18, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Request from a Federal Credit Union to Add an Underserved Area to its Field of Membership.

2. Appeals from Two (2) Federal Credit Unions of the Regional Director's Denial to Convert from a Multiple Group Charter to a Community Charter.

3. Proposed Interpretive Ruling and Policy Statement (IRPS) regarding Allowance for Loan and Lease Losses Methodologies and Documentation for Federally-Insured Credit Unions.

4. Advance Notice of Proposed Rulemaking, Part 703, NCUA's Rules and Regulations, Investment and Deposit Activities.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, October 18, 2001.

PLACE: Board Room, 7th Floor, Room 7047 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed

MATTERS TO BE CONSIDERED:

1. Two (2) Administrative Actions under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).

2. Administrative Action under Part 709 of NCUA's Rules and Regulations. Closed pursuant to exemptions (6) and (8).

3. Two (2) Personnel Matters. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,

Secretary of the Board

[FR Doc. 01–26020 Filed 10–11–01; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND PLACE: 9:30 A.M., Tuesday, October 23, 2001.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS The one item is Open to the Public.

MATTER TO BE CONSIDERED: 7195A Aviation Accident Report—Runway Overrun During Landing, Involving American Airlines Flight 1420, McDonnell Douglas MD–82, N215AA, Little Rock, Arkansas, June 1, 1999.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Mr. Carolyn Dargan at (202) 314–6305 by Friday, October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: October 12, 2001.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 01–26110 Filed 10–12–01; 11:46 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8681–MLA–10; ASLBP No. 02–793–01–MLA]

International Uranium (USA) Corporation; Notice of Reconstitution

Pursuant to 10 CFR 2.1207, the Presiding Officer in the captioned 10 CFR Part 2, subpart L proceeding is hereby replaced by appointing Administrative Judge Alan S. Rosenthal as Presiding Officer in place of Administrative Judge Ivan Smith.

All correspondence, documents and other material shall be filed with the Presiding Officer in accordance with 10 CFR 2.1203. The address of the new Presiding Officer is: Administrative Judge Alan S. Rosenthal, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Issued at Rockville, Maryland this 10th day of October 2001.

G. Paul Bollwerk III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 01–25959 Filed 10–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50–530]

Arizona Public Service Co., et al., Palo Verde Nuclear Generating Station, Unit 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) §§ 50.44, 50.46, and part 50, appendix K for Facility Operating License No. NPF–74, issued to Arizona Public Service Company (APS or the licensee), for operation of the Palo Verde Nuclear Generating Station, Unit 3 (PVNGS), located in Maricopa County, Arizona. 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 continue to temporarily exempt Arizona Public Service Company from requirements of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, Appendix K for PVNGS, Unit 3. The Code of Federal Regulations specifically refers to or presumes use of zircaloy or ZIRLO cladding for controlling hydrogen generation, emergency core cooling system performance, and bounding post-loss-of-coolant accident (LOCA) senarios. The proposed action would allow APS to continue testing a lead fuel assembly (LFA) containing fuel rods fabricated with an advanced zirconium based cladding material, Alloy A. The cladding material had been previously approved for limited use and testing at PVNGS for seven cycles of burnup, which ended with Cycle 9 for Unit 3. The proposed action would allow the Unit 3 LFA to continue an additional cycle to Cycle 10 (U3C10).

The proposed action is in accordance with the licensee's application dated March 2, 2001, as supplemented by letters dated August 28, 2001, and September 25, 2001.

The Need for the Proposed Action

The proposed action is needed because Alloy A does not fall within the specifically defined cladding material stated in the Code of Federal Regulations. The proposed exemption is based on the latest Westinghouse report documenting the results of data confirming the superior performance of Alloy A and justifying the continued irradiation of this clad material in Unit 3 Cycle 10, ''Performance of Alloy A Clad Rods and LFA in Palo Verde Unit 3,'' February 2001. The first and second exemptions allowing use of Alloy A were based on Westinghouse Report CEN–411(V)–P, ''Safety Evaluation Report for Use of Advanced Zirconium Based Cladding Materials in PVNGS Unit 3 Batch F Demonstration Assemblies,'' December 1991, and Westinghouse Report CEN–429–P, ''Safety Analysis Report for Use of Advanced Zirconium Based Cladding Material in PVNGS Unit 3 Lead Fuel Assemblies,'' August 1996, respectively. The reports described, and the staff agrees, that the intent of the regulations would continue to be met since Alloy A falls within the range of the properties for Zircaloy 4. Thus, the proposed action is necessary to allow the irradiation of the LFA containing Alloy A.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. The predicted chemical, mechanical, and material performance characteristics of Alloy A cladding have been within those approved for zircaloy cladding over the past seven cycles. A detailed analysis will be performed on the assembly prior to its use in U3C10. Additionally, a poolside inspection will be performed prior to the assembly being reloaded. The lead fuel assembly will be placed in a core location which does not experience the highest power density throughout the cycle. Therefore, continued use of the LFA in Cycle 10, and the proposed exemption will not present any undue risk to public health and safety.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Palo Verde, Unit 3, dated February 1982 (NUREG–0841).

Agencies and Persons Consulted

On October 9, 2001, the staff consulted with the Arizona State official, Mr. William Wright of the Arizona Radiation Regulatory Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 2, 2001, as supplemented by letters dated August 28, 2001, and September 25, 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 October 2001.

For the Nuclear Regulatory Commission.

Stephen Dembek,

Chief, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–25954 Filed 10–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of October 15, 22, 29, November 5, 12, 19, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 15, 2001

Thursday, October 18, 2001

9 a.m. Meeting with NRC Stakeholders—Progress of Regulatory Reform (Public Meeting) (Location—Two White Flint North Auditorium)

Week of October 22, 2001—Tentative

There are no meetings scheduled for the Week of October 22, 2001.

Week of October 29, 2001—Tentative

There are no meetings scheduled for the Week of October 29, 2001.

Week of November 5, 2001—Tentative

There are no meetings scheduled for the Week of November 5, 2001.

Week of November 22, 2001—Tentative

Thursday, November 15, 2001

2 p.m. Discussion of Intragovernmental Issues (Closed-Ex. 1)

Week of November 19, 2001—Tentative

There are no meetings scheduled for the Week of November 19, 2001.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/SECY/smj/schedule.htm*

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: October 11, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–26109 Filed 10–12–01; 11:46 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Order No. 1326; Docket No. MC2001–3]

Ride-Along Experiment Extension

AGENCY: Postal Rate Commission.

ACTION: Notice and order on extension of ride-along experiment.

SUMMARY: The Postal Service seeks a limited extension of the ride-along experiment, which allows qualifying Standard mail to travel for a flat fee when included in a host Periodicals publication. This would allow the experiment to continue without disruption while permanent ride-along status is considered in the pending omnibus rate case. The Commission invites public participation, makes several procedural rulings, and notes the possibility that this case may be quickly settled.

DATES: Notices of intervention and answers to a motion for waiver of certain filing rules are due on or before October 19, 2001.

ADDRESSES: Send correspondence to the attention of Steven W. Williams, acting secretary, Postal Rate Commission, 1333 H Street NW., suite 300, Washington, DC 20268–0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820.

SUPPLEMENTARY INFORMATION:

A. Authority To Consider the Service's Request

39 U.S.C. 3623.

B. Procedural History

1. A notice and order (No. 1308) concerning the underlying experimental docket (No. MC2000–1) appeared at 66 FR 15775.

2. This notice and order (No. 1326) was issued October 5, 2001.

C. Background

On September 28, 2001, the U.S. Postal Service filed a request with the Postal Rate Commission for an extension of the ride-along experiment, which is now underway pursuant to docket no. MC2000–1. The experiment allows one qualifying Standard mail piece to ''ride along'' with a host Periodicals publication for a flat fee of 10 cents.

Without the extension, the experiment would expire on February 26, 2002, while the Service's request for permanent ride-along status (and a flat fee of 12.4 cents) is pending as part of the recently-filed omnibus rate and classification case (docket no. R2001–1). To address this situation, the Service proposes changing the expiration date to coincide with implementation of related rate schedules (or Periodicals rates generally) resulting from the omnibus case decision. Request of the United States Postal Service for a recommended decision on extension of the experimental ride-along classification for Periodicals, September 28, 2001 (request). The request was filed pursuant to chapter 36 of the Postal Reorganization Act, 39 U.S.C. 3602 *et seq.* It affects domestic mail classification schedule (DMCS) section 443.1a and rate schedules 421 (footnote 12) and 423 (footnote 5).

In support of its request, the Service has filed the prepared direct testimony of witness Koroma (USPS–T–1). Request, attachment A. This testimony incorporates by reference witness Koroma's testimony (USPS–T–44) in the omnibus case. The Service also has filed a motion seeking waiver (to the extent applicable) of Commission rules 54 and 64; a proposed stipulation and agreement; and a related notice. Motion of the United States for waiver of rules, September 28, 2001; Stipulation and Agreement, September 28, 2001; Notice of United States Postal Service filing of proposed stipulation and agreement, September 28, 2001 (notice).

Potential for expedition, including settlement. The Service's notice indicates that the limited nature of the proposed change lends itself to exploration of the possibility of settlement, and states that it has filed the stipulation and agreement to encourage parties to consider expeditious resolution. It further suggests that parties contact Postal Service counsel with questions or with signature pages for the stipulation and agreement. Notice at 1. Similarly, the Service's request indicates that it does not expect this proposal to be controversial; cites the interest of

mailers and advertisers in making related business decisions prior to the current cutoff date; and notes that it has begun contacting participants in the underlying experimental case regarding settlement. Request at 2.

Proceedings; authorization of settlement negotiations. The Commission hereby establishes docket no. MC2001–3, ride-along experiment extension, for consideration of the Service's proposed change in the previously-approved expiration date. The Commission authorizes settlement proceedings in this case, appoints the Postal Service as settlement coordinator, and forgoes setting a prehearing conference date in recognition that a prompt settlement may be possible.

Intervention. Those wishing to be heard in this matter are directed to file a written notice of intervention with Steven W. Williams, acting secretary of the Commission, 1333 H Street NW., suite 300, Washington, DC 20268–0001, on or before October 19, 2001. Notices should indicate whether the intervenor requests a hearing or conference, and to the extent possible, the position of the intervenor with regard to the Postal Service request. *See* rule 20(b), 39 CFR 3001.20(b). In the absence of a specific request, evidentiary hearings may not be held.

Representation of the general public. In conformance with § 3624(a) of title 39, the Commission designates Shelley S. Dreifuss, acting director of the Commission's office of the consumer advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and at the same time as, service on the Commission of the 24 copies required by Commission rule 10(d).

D. Ordering Paragraphs

It is ordered:

1. The Commission establishes docket no. MC2001–3, ride-along experiment extension, to consider the request referred to in the body of this order.

2. Notices of intervention shall be filed no later than October 19, 2001.

3. Answers to the motion of the United States for waiver of rules are due no later than October 19, 2001.

4. The Postal Service is authorized to act as settlement coordinator in this proceeding.

5. The acting secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Steven W. Williams,

Acting Secretary.

[FR Doc. 01–25938 Filed 10–15–01; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25208; 812–12398]

CCM Advisors Funds, et al.; Notice of Application

October 11, 2001.

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

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants seek an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

APPLICANTS: CCM Advisors Funds (''Master Trust''), CCMA Select Investment Trust (''Select Trust''), AHA Investment Funds, Inc. (''AHA Funds'') (collectively, the ''Funds''), and CCM Advisors, LLC (the ''Adviser'').

FILING DATES: The application was filed on January 9, 2001 and amended on October 10, 2001. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 31, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 190 South LaSalle Street, Chicago, Illinois, 60603.

FOR FURTHER INFORMATION CONTACT: Sara P. Crovitz, Senior Counsel, at (202) 942–0667, or Michael W. Mundt, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0101, (202) 942–8090.

Applicants' Representations

1. Each Fund is registered under the Act as an open-end management investment company. Master Trust, a Delaware business trust, consists of seven series (each a ''Master Portfolio'') that will issue interests solely through private placement transactions that do not involve any ''public offering'' within the meaning of section 4(2) of the Securities Act of 1933 (''1933 Act''). Investments in the Master Portfolios may only be made by investment companies and certain other entities that are ''accredited investors'' within the meaning of regulation D under the 1933 Act. Each Master Portfolio will serve as a master fund in a master/feeder structure. Select Trust, a Delaware trust, consists of two series (each a ''Select Series''). Each Master Portfolio and Select Series is a ''Portfolio.'' AHA Funds, a Maryland corporation, consists of four series. As of November 1, 2001, each series of AHA expects to invest all of its investable assets in a corresponding Master Portfolio and become a ''Feeder Portfolio.''

2. The Adviser, a Delaware limited liability company, is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and currently serves as investment adviser to AHA Funds pursuant to an investment advisory agreement (''Advisory Agreement'') that was approved by the board of directors of AHA Funds, including a majority of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, and by shareholders. The boards of trustees of Master Trust and Select Trust, including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, also have approved Advisory Agreements with the Adviser. The board of each Fund is a ''Board,'' and the

disinterested directors or trustees of each Board are ''Independent Directors.'' [1]

3. Under the terms of each Advisory Agreement, the Adviser will serve as investment adviser to the Portfolios and will be responsible for providing general, overall advice and guidance to the Portfolios. Subject to oversight by the Board, the Adviser may hire subadvisers (each a ''Subadviser Agreements''). Each Subadviser is or will be an investment adviser registered or exempt from registration under the Advisers Act. Subadvisers will be recommended to the Board by the Adviser and selected and approved by the Board, including a majority of the Independent Directors. Each Subadviser's fees will be paid by the Adviser out of the management fees received by the Adviser from the representative Portfolio.

4. The Adviser will monitor the Portfolio and the Subadvisers and will make recommendations to the Board regarding allocation, and reallocation, of assets between Subadvisers and will be responsible for recommending the hiring, termination and replacement Subadvisers and will be responsible for recommending the hiring, termination and replacement of Subadvisers. The Adviser will recommend Subadvisers based on a number of factors used to evaluate their skills in managing assets pursuant to particular investment objectives. The AHA Funds currently use 5 Subadvisers.

5. Applicants request relief to permit the Adviser, subject to Board oversight, to enter into and materially amend Subadvisory Agreements without shareholder approval. The requested relief will not extend to a Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Portfolios and Feeder Portfolios or of the Adviser, other than by reason of serving as a Subadviser to one or more of the Portfolios (''Affiliated Subadviser'').

6. Applicants also request an exemption from the various disclosure provisions described below that may require each Portfolio or Feeder Portfolio to disclose the fees paid by the Adviser to each Subadviser. Each Portfolio and Feeder Portfolio would disclose (both as a dollar amount and as a percentage of the Portfolio' net assets): (a) aggregate fees paid to the Adviser and any Affiliated Subadvisers; and (b) aggregate fees paid to Subadvisers other than the Affiliated Subadvisers (''Non-Affiliated Subadvisers'') (collectively, ''Modified Fee Disclosure''). For any Portfolio that employs an Affiliated Subadviser, the Portfolio and Feeder Portfolio will provide separate disclosure of any fees paid to the Affiliated Subadviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is lawful for any person to act as investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a manner must approve such matter if the Act requires shareholder approval. [2]

2. Form N–1A is the registration statement used by open-end investment companies. Item 15(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''Exchange Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of ''the terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclosure the rate schedule for fees paid to their investment advisers, including the Subadvisers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Section 6–07(2)(a), (b) and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

7. Applicants assert that shareholders are relying on the Adviser to select and monitor the activities of Subadvisers best suited to achieve the Portfolios' investment objectives. Applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of each Subadvisory Agreement may impost unnecessary costs and delays on the Portfolio, and may preclude the Adviser from acting promptly and efficiently in a manner considered advisable by the Board and the Adviser. Applicants note that the Advisory Agreement will remain subject to section 15(a) of the Act and rule 18f–2 under the Act.

8. Applicants assert that many Non-Affiliated Subadvisers charge their customers for advisory services according to a ''posted'' rate schedule. Applicants state that the Adviser may not be able to negotiate below ''posted'' fee rates with Non-Affiliated Subadvisers if each Non-Affiliated Subadviser's fees are required to be disclosed. Applicants submit that the relief will allow Non-Affiliated Subadvisers to accept lower advisory fees from the Adviser, the benefits of which will be passed on to shareholders in the form of lower advisory fees.

[1] Applicants also request relief with respect to (1) any existing or future series of the Funds and any other registered open-end management investment companies or series thereof that are advised by the Adviser and operate in the same manner as the Portfolios (each such entity, also a ''Portfolio''), and (2) any registered open-end management investment companies or series thereof that are advised by the Adviser and operate in the same manner as the Portfolios (each such entity, also a ''Portfolio''), and (2) any registered open-end management investment company or series thereof that now or in the future invests all of its investable assets in a Portfolio (each such entity, also a ''Feeder Portfolio''). Any Portfolio or Feeder Portfolio that relies on the requested order will do so only in accordance with the terms and conditions contained in the application. The Funds are the only existing investment companies that currently intend to rely on the requested order. If the name of a Portfolio or Feeder Portfolio contains the name of a Subadviser (as defined below), the name of the Portfolio or Feeder Portfolio will also contain the name of the Adviser, which will appear before the name of the Subadviser.

[2] In the case of the Master Portfolios, shareholder approval requirements under section 15(a) and rule 18f–2 also are governed by the voting provisions set forth in section 12(d)(1)(E) of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Portfolio may rely on the order requested in the application, the operation of the Portfolio in the manner described in the application will be approved by a majority of the outstanding voting securities of the Portfolio, within the meaning of the Act, or if applicable, pursuant to voting instructions provided by shareholders of any Feeder Portfolios investing in the Portfolio or other voting arrangements that comply with section 12(d)(1)(E)(iii)(aa) (of the Act, if applicable. Before a future Portfolio or Feeder Portfolio may rely on the order requested in the application, the operation of the future Portfolio or Feeder Portfolio in the manner described in the application will be approved by a majority of the outstanding voting securities of the future Portfolio or Feeder Portfolio within the meaning of the Act, or if applicable, pursuant to voting instructions provided by the shareholders of the future Feeder Portfolio in accordance with section 12(d)(1)(E)(iii)(aa) of the Act, or in the case of a future Portfolio or Feeder Portfolio whose shareholders purchase shares in a public offering on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before the shares of the future Portfolio or Feeder Portfolio are offered to the public.

2. A Portfolio's prospectus, a Feeder Portfolio's prospectus or, in the case of a Portfolio offering its shares in a private placement offering, its offering document, will disclose the existence, substance and effect of any order granted pursuant to the application. Each Portfolio and Feeder Portfolio will hold itself out as employing the management structure described in the application. A Portfolio's prospectus, a Feeder Portfolio's prospectus, or in the case of a Portfolio offering its shares in a private placement offering, its offering documents, will prominently disclose that the Adviser has ultimate responsibility, subject to oversight by the Board, to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of a Subadviser, the Adviser will furnish shareholders of the applicable Portfolio and Feeder Portfolio with the information about the Subadviser that would be included in a proxy statement, except as modified to permit Modified Fee Disclosure. This information will include Modified Fee Disclosure and any changes in such disclosure caused by the addition of a new Subadviser. To meet this obligation, the Adviser will provide shareholders of the applicable Portfolio and Feeder Portfolio, within 90 days of the hiring of a Subadviser, an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Exchange Act, except as modified by the order to permit Modified Fee Disclosure.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without such Subadvisory Agreement, including the compensation to be paid thereunder, being approved by the shareholders of the Portfolio, or, if applicable, pursuant to voting instructions provided by shareholders of any Feeder Portfolios investing in such Portfolio or other voting arrangements that comply with section 12(d)(1)(E)(iii)(aa) of the Act, if applicable.

5. At all times, a majority of each Board will be Independent Directors, and the nomination of new or additional Independent Directors will be at the discretion of the then-existing Independent Directors.

6. When a Subadviser change is proposed for a Portfolio with an Affiliated Subadviser, the applicable Board, including a majority of the Independent Directors, will make a separate finding, reflected in the applicable Portfolio's and Feeder Portfolio's Board minutes, that the change is in the best interests of the Portfolio and its shareholders and any Feeder Portfolio investing in the Portfolio and its respective shareholders, and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Directors. The selection of such counsel will be within the discretion of the then-existing Independent Directors.

8. The Adviser will provide the applicable Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per-Portfolio basis. This information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

9. Whenever a Subadviser is hired or terminated, the Adviser will provide the applicable Board with information showing the expected impact on the profitability of the Adviser.

10. The Adviser will provide general management services to each Portfolio, including overall supervisory responsibility for the general management and investment of the Portfolio's assets and, subject to review and approval of the Board, will: (a) set each Portfolio's overall investment strategies; (b) evaluate, select and recommend Subadvisers to manage all or part of the Portfolio's assets; (c) allocate and, when appropriate, reallocate the Portfolio's assets among multiple Subadvisers; (d) monitor and evaluate the performance of Subadvisers; and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with each Portfolio's investment objectives, policies and restrictions.

11. No trustee, director, or officer of the Portfolios or Feeder Portfolios or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadviser except for: (a) ownership of interests in the Adviser or any entity that controls, is controlled by or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly-traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

12. Each Portfolio and Feeder Portfolio in its registration statement and each Portfolio offering its shares in a private placement offering, in its offering documents, will disclose the Modified Fee Disclosure.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25986 Filed 10–15–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934; Rel. No. 44916/October 10, 2001]

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, the Commission has determined to provide broker-dealers with further relief under Exchange Act Rules 15c3–1 and 15c3–3 to facilitate the orderly reconciliation of transactions in government securities. Accordingly,

It is ordered, pursuant to Section 36 of the Exchange Act, that, Broker-dealers need not consider the days October 6, 2001 through October 19, 2001, inclusive, 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 Account 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.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25956 Filed 10–15–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44914; File No. SR–NASD–2001–68]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the National Association of Securities Dealers, Inc., to Raise the Per Share Charge for Use of SuperSOES By Non-NASD Members

October 9, 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 October 4, 2001, the National Association of Securities Dealers, Inc. (''NASD'') through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' of ''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to increase the per share charge for use of the Nasdaq National Market Executive System (''NNMS'' or ''SuperSOES'') on a pilot basis. This rule filing applies this change to national securities trading Nasdaq-listed securities pursuant to grants of unlisted trading privileges (''UTP Exchanges''), which are not NASD members. The rule filing would become effective immediately upon approval by the Commission and would be implemented on the first day of the month immediately following Commission approval, and would remain in effect, on a pilot basis, until October 31, 2002. During the pilot period, Nasdaq will assess the effect of the rule change on market participants and Nasdaq and may file additional changes to the level or structure of its fees.[3] The text of the proposed rule change is set forth below. Proposed new language is underlined; proposed deletions are in brackets.

* * *

7010. System Services

(a)–(h) No change.

(i) Transaction Execution Services

(1) No change.

(2) Nasdaq National Market Execution System (SuperSOES)

The following charges shall apply to the use of the Nasdaq National Market Execution System:

Order Entry Charge—$0.10 per order entry (entering party only)

Per Share Charge—$0.001 per share executed for all fully or partially executed orders (entering party only)

Cancellation Fee—$0.25 per order cancelled (canceling party only)

For a pilot period commencing on November 1, 2001 and lasting until October 31, 2002, the per share charge will be $0.002 per share executed for all fully or partially executed orders (entering party only).

* * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 14, 2000, the Commission issued an order approving a rule change that: (1) Established the NNMS, a new platform for the trading of Nasdaq National Market (''NNM'') securities; (2) modified the rules governing the use of SelectNet for trading NNM issues; and (3) left unchanged trading of Nasdaq SmallCap securities through the Small Order Execution System (''SOES'') and SelectNet.[4] Nasdaq began implementing these system changes on July 9, 2001 and completed implementation on July 30, 2001. Through these changes, the NNMS has become the primary trading platform for NNM securities, and SelectNet is intended to be used primarily for the transmittal and execution of ''non-liability'' orders for market makers in NNM securities, as well as the transmittal and execution of ''liability'' order to market participants that do not participate in the automatic execution functionality of the NNMS. On Sepember 28, 2001, Nasdaq filed modifications to the pricing structure for SelectNet and the NNMS.[5] These changes were designed as an interim modification to being the process of aligning the charges to market participants for using the NNMS and SelectNet more closely with the costs of providing these services and the benefits that they provide to market participants. In this filing, Nasdaq is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Nasdaq also filed a companion rule filing (SR–NASD–2001–67) to apply the same rule change to NASD members and to introduce a liquidity provider rebate available to NASD members. *See* Securities Exchange Act Release No. 44910 (October 5, 2001). SR–NASD–2001–67 is effective upon filing, and Nasdaq will implement it for a pilot period commencing on November 1, 2001 and ending on October 31, 2002.

[4] Securities Exchange Act Release No. 42344 (Jan. 14, 2000), 65 FR 16 (Jan. 25, 2000) (SR–NASD–99–11).

[5] *See* Securities Exchange Act Release No. 44899 (October 2, 2001) (File No. SR–NASD–2001–63) and Securities Exchange Act Release No. 44898 (October 2, 2001) (File No. SR–NASD–2001–64) SR–NASD–2001–63 applied the new fees to NASD members, effective upon filing, and was implemented on October 1, 2001. SR–NASD–2001–64 will apply the new fees to UTP Exchanges, and will be implemented on the first day of the month immediately following Commission approval.

increasing the per share charge for orders entered and executed in the NNMS from $0.001 per share to $0.002 per share, in keeping with Nasdaq's ongoing efforts to align charges with costs and benefits.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the Act, including Section 15A(b)(5) of the Act,[6] which requires that the rules of the NASD provide for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and Section 15A(b)(6) of the Act,[7] which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that the level of fees charged to market participants under the proposal is reasonable. Nasdaq anticipates that overall fees for the NNMS, SelectNet, and SOES, net of the liquidity provider rebate, will be comparable to overall fees for the NNMS, SelectNet, and SOES under the pricing changes contained in SR–NASD–2001–63[8] and SR–NASD–2001–64.[9] Such fees are, in turn, estimated to be slightly lower than overall fees for SelectNet and SOES prior to the introduction of the NNMS.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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

Nasdaq did not solicit or receive written comments on the proposed rule change.

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 NASD consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., 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 NASD. All submissions should refer to File No. SR–NASD–2001–68 and should be submitted by November 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25936 Filed 10–15–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44915; File No. SR–NASD–2001–65]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Extending the Pilot Term of the Nasdaq International Service and the Effectiveness of Nasdaq International Service Rules

October 9, 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 October 2, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.[3]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to extend for one year (1) the pilot term of the Nasdaq International Service (''Service''), and (2) the effectiveness of certain rules (''International Rules'') that are unique to the Service. This rule change does not entail any modification of the International Rules. The present authorization for the Service and the International Rules expires on October 9, 2001. With this filing, the pilot period for the Service and the International Rules would be extended until October 9, 2002.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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 NASD proposed to extend for an additional year, until October 9, 2002, the pilot operation of the Service and the effectiveness of the International Rules governing broker-dealers' access to and use of the Service. The Commission originally approved the

[6] 15 U.S.C. 78*o*–3(b)(5).

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] *See* SR–NASD–2001–63, *supra* note 5.

[9] *See* SR–NASD–2001–64, *supra* note 5.

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission made a typographical and formatting change at the request of the NASD. The changes are reflected in this notice. Telephone discussion between Peter R. Geraghty, Associate General Counsel, Nasdaq, and Christopher B. Stone, Attorney Advisor, Division of Market Regulation, Commission (Oct. 5, 2001).

existing pilot operation of the Service and the International Rules in October 1991.[4] The Service was launched on January 20, 1992. The pilot has since been extended and is currently set to expire on October 9, 2001.[5]

The Service supports an early trading session running from 3:30 a.m. to 9:00 a.m., Eastern Time, on each U.S. business day (''European Session'') that overlaps the business hours of the London financial markets. Participation in the Service is voluntary and is open to any authorized NASD member firm or its approved broker-dealer affiliate in the U.K. A member participates as a Service market maker either by staffing its trading facilities in the U.S. or the facilities of its approved affiliate during the European Session. The Service also has a variable opening feature that permits Service market makers to elect to participate starting from 3:30 a.m., 5:30 a.m. or 7:30 a.m., Eastern Time. The election is required to be made on a security-by-security basis at the time a firm registers with the NASD as a Service market maker.[6] At present, there are no Service market makers participating in the Service.

As noted above, the NASD is seeking to extend the pilot term for one year, During this period, the NASD will continue to reevaluate the Service's operation and consider possible enhancements to the Service to broaden market participation. The NASD continues to view the Service as a significant experiment in expanding potential opportunities for international trading via systems operated by Nasdaq. Accordingly, the NASD believes that this pilot operation warrants an extension to permit possible enhancements that will increase the Service's utility and attractiveness to the investment community.[7] The NASD maintains its belief that it is extremely important to preserve this facility and the opportunities it provides, especially in light of the increasingly global nature of the securities markets and the trend of cross-border transactions generally.

In addition, the Service still serves an invaluable role as a critical early warning mechanism in the context of significant changes involving Nasdaq software and hardware systems. Specifically, because the Service operates in the early morning hours prior to the opening of trading in the domestic session of Nasdaq, the Service has provided for the early detection of systems or communications problems when Nasdaq implements these systems changes.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with Sections 11A(a)(1)(B) and (C) and 15A(b)(6) of the Act. Subsections (B) and (C) of Section 11A(a)(1) set forth the Congressional goals of achieving more efficient and effective market operations, broader availability of information with respect to quotations for securities, and the execution of investor orders in the best market through the use of advanced data processing and communications techniques. Section 15(A)(b)(6) requires, among other things, that the NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The NASD believes that the proposed extension of the Service and the International Rules is fully consistent with these statutory provisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The NASD has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission 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 data 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 inspecting and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–65 and should be submitted by November 6, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with Sections 11A(a)(1)(B) and (C) and 15A(b)(6) of the Act.[8] The Commission believes that, in connection with the globalization of securities markets, the Service provides an opportunity to advance the statutory goals of (1) Achieving more efficient and effective market operations; (2) broader availability of information with respect to quotations for securities; (3) the execution of investor orders in the best market through the use of advanced data processing and communications techniques; and (4) fostering cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities.

The Commission views the Service as providing potential opportunities for international trading via a system operated by Nasdaq. The Service is intended to promote additional commitments of member firms' capital to market making and to attract commitments from firms based in Europe that currently do not function as Nasdaq market makers. Although there are no Service market makers participating in the Service, the NASD plans to reevaluate the plans to reevaluate the Service's operation and consider possible enhancements to the Service to broaden market maker participation. Additionally, the Service provides an early warning system when

[4] *See* Securities Exchange Act Release No. 29812 (Oct. 11, 1991), 56 FR 52082 (Oct. 17, 1991) (File No. SR–NASD–90–33).

[5] *See* Securities Exchange Act Release No. 43218 (Aug. 29, 2000), 65 FR 54095 (Sept. 6, 2000) (File No. SR–NASD–00–51).

[6] Regardless of the opening time chosen by the Service market maker, the Service market maker is required to fulfill all the obligations of a Service market maker from that time (*i.e.,* either 3:30 a.m., 5:30 a.m. or 7:30 a.m.) until the European Session closes at 9:00 a.m., Eastern Time. *See* Securities Exchange Act Release No. 32471 (June 16, 1993), 58 FR 33965 (June 22, 1993) (File No. SR–NASD–92–54).

[7] Assuming that the pilot term is extended, the NASD will continue to supply the Commission with the statistical reports prescribed in the initial approval order for the Service at six-month intervals.

[8] In reviewing this proposal, the Commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f)

Nasdaq implements significant changes involving its hardware and software systems. Because the Service operates before the opening of the domestic session of Nasdaq, the Service allows for the early detection of systems or communication problems. Accordingly, the Commission believes that this pilot operation warrants an extension to permit possible enhancements that will increase the Service's utility and attractiveness to the investment community. Any changes to the operation of the Service will be filed pursuant to Section 19(b)(2) of the Act.[9]

Pursuant to Section 19(b)(2) of the Act,[10] the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** The Commission believes that it is appropriate to approve on an accelerated basis the one-year extension of the Service, until October 9, 2002, to ensure the continuous operation of the Service, which is set to expire on October 9, 2001.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–2001–65) is hereby approved an accelerated basis.[12]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25955 Filed 10–15–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09–5332]

Notice of Surrender of License

Notice is hereby given that First American Capital Funding, Inc. located at 10840 Warner Avenue, Suite 202, Fountain Valley, California 92708, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). First American Capital Funding, Inc. was licensed by the Small Business Administration on May 2, 1984.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was acted on this date, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: October 4, 2001.

Harry E. Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 01–25962 Filed 10–15–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Bertie and Hertford Counties, NC

AGENCY: Federal Highway Administration, Transportation.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Bertie and Hertford Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Lawton, Operations Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, North Carolina 27611. Telephone: (919) 856–4350.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposal to improve the existing United States Route (US) 13 corridor in the area of the Town of Ahoskie in Bertie and Hertford Counties.

The purposes of the proposed action include:

- Improving traffic flow and levels of service on the section of US 13 in the project study area.
- Relieving congestion on US 13 in the Town of Ahoskie, thereby improving safety and reducing the number of accidents.
- Improving high-speed regional travel along the US 13 intrastate corridor.
- Enhance economic development opportunities for the local area.

Alternatives under consideration include:

1. No-Build Alternative
2. Transportation Systems Management (TSM) Measures
3. Mass Transit Alternative
4. Improving the existing facility
5. Constructing a facility on new location east of existing US 13
6. Constructing a facility on new location west of existing US 13
7. A combination of widening and new location improvements.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies. A series of public meetings and a public hearing will be held. Public notice will be given of the times and places of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the hearing.

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 EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Emily Lawton,

Operations Engineer, Federal Highway Administration, Raleigh, North Carolina.

[FR Doc. 01–25932 Filed 10–15–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 5, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 15, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1360.

Regulation Project Number: PS–102–88 Final.

Type of Review: Extension.

Title: Income, Gift and Estate Tax.

[9] 15 U.S.C. 78s(b)(2).

[10] 15 U.S.C. 78s(b)(2).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

Description: The regulation provides guidance to individuals or fiduciaries: (1) For making a qualified domestic trust election on the estate tax return of a decedent whose surviving spouse is not a United States citizen in order that the estate may obtain the marital deduction, and (2) for filing the annual returns that such an election may require.

Respondents: Individuals or households.

Estimated Number of Respondents: 2,300.

Estimated Burden Hours Per Respondent: 2 hours, 40 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 6,150 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–25973 Filed 10–15–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

Notice of Call for Redemption: 7⅝ Percent Treasury Bonds of 2002–07

October 15, 2001.

1. Public notice is hereby given that all outstanding 7⅝ percent Treasury Bonds of 2002–07 (CUSIP No. 912810 BX 5) dated February 15, 1977, due February 15, 2007, are hereby called for redemption at par on February 15, 2002, on which date interest on such bonds will cease.

2. Full information regarding the presentation and surrender of such bonds held in coupon and registered form for redemption under this call will be found in Department of the Treasury Circular No. 300 dated March 4, 1973, as amended (31 CFR Part 306), and from the Definitives Section of the Bureau of the Public Debt (telephone (304) 480–7936), and on the Bureau of the Public Debt's website, www.publicdebt.treas.gov.

3. Redemption payments for such bonds held in book-entry form, whether on the books of the Federal Reserve Banks or in Treasury-Direct accounts, will be made automatically on February 15, 2002.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 01–25912 Filed 10–15–01; 8:45 am]

BILLING CODE 4810–40–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6406

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6406, Short Form Application for Determination for Minor Amendment of Employee Benefit Plan.

DATES: Written comments should be received on or before December 17, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Short Form Application for Determination for Minor Amendment of Employee Benefit Plan.

OMB Number: 1545–0229.

Form Number: 6406.

Abstract: Form 6406 is used to apply for a determination for a minor amendment for an employee benefit plan if that plan has already received a favorable determination letter that takes into account the requirements of the Tax Reform Act of 1986. The information gathered will be used to decide whether the plan is qualified under Internal Revenue Code section 401(a).

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: 21 hr., 32 min.

Estimated Total Annual Burden Hours: 538,250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 10, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–25988 Filed 10–15–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5300 and Schedule Q (Form 5300)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5300, Application for Determination for Employee Benefit Plan, and Schedule Q (Form 5300), Elective Determination Requests.

DATES: Written comments should be received on or before December 17, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Determination for Employee Benefit Plan (Form 5300), and Elective Determination Requests (Schedule Q (Form 5300)).

OMB Number: 1545–0197.

Form Number: Form 5300 and Schedule Q (Form 5300).

Abstract: Internal Revenue Code sections 401(a) and 501(a) set out requirements for qualification of employee benefit trusts and the tax exempt status of these trusts. Form 5300 is used to request a determination letter from the IRS for the qualification of a defined benefit or a defined contribution plan and the exempt status of any related trust. The information requested on Schedule Q (Form 5300) relates to the manner in which the plan satisfies certain qualification requirements concerning minimum participation, coverage, and nondiscrimination.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 185,000.

Estimated Time Per Respondent: 43 hours, 1 minute.

Estimated Total Annual Burden Hours: 7,955,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 10, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–25989 Filed 10–15–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5307

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5307, Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans.

DATES: Written comments should be received on or before December 17, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans.

OMB Number: 1545–0200.

Form Number: 5307.

Abstract: Employers whose pension plans meet the requirements of Internal Revenue Code section 401(a) are permitted a deduction for their contributions to these plans. To have a plan qualified under Code section 401(a), the employer must submit an application to the IRS as required by regulation § 1.401–1(b)(2). Form 5307 is used as an application for this purpose by adopters of master or prototype or volume submitter plans.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 45 hours, 40 minutes.

Estimated Total Annual Burden Hours: 4,566,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 10, 1001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–25990 Filed 10–15–01; 8:45 am]

BILLING CODE 4930–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Tax Exempt and Government Entities Division of the Internal Revenue Service; Charter

AGENCY: Internal Revenue Service (IRS); Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department has determined that it is in the public interest to renew the Advisory Committee on Tax Exempt and Government Entities. The Department has filed a charter for an additional two-year term for the Committee.

FOR FURTHER INFORMATION CONTACT: Steven J. Pyrek, Tax Exempt and Government Entities, T:CL, 6th Floor Penn Bldg., 1111 Constitution Ave., NW., Washington, DC 20224. Telephone: 202–283–9966 (not a toll-free number). E-mail address: *steve.j.pyrek@irs.gov.*

SUPPLEMENTARY INFORMATION: The charter to renew the Advisory Committee on Tax Exempt and Government Entities was filed on August 6, 2001. The Committee's name has been changed from Tax Exempt Advisory Committee to more accurately reflect the membership and purpose of the Committee: To represent the customer base and stakeholders of the Tax Exempt and Government Entities Division of the IRS. The Advisory Committee consists of stakeholders from the communities of: Employee Plans: Exempt Organizations; Federal, State and Local Governments; Indian Tribal Governments; and Tax Exempt Bonds. The Committee is established to provide an organized public forum for discussion of relevant issues between these communities and officials of the IRS. The Committee members will present in an organized and constructive fashion the interested public's observations about current or proposed Tax Exempt and Government Entities Division programs and procedures and will suggest improvements in the on-going IRS modernization and restructuring process.

Dated: August 29, 2001.

Steven J. Pyrek,

Designated Federal Official, Director, Communications and Liaison, Tax Exempt and Government Entities Division.

[FR Doc. 01–25991 Filed 10–15–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the New York Metro Citizen Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Amendment to notice.

SUMMARY: An open meeting of the New York Metro Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Wednesday, October 24, 2001.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Wednesday, October 24, 2001, 6 p.m. to 9:20 p.m. at the Internal Revenue Service, 625 Fulton Street, Brooklyn, NY.

For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555.

The public is invited to make oral comments from 9 p.m. to 9:20 p.m. on Wednesday, October 24, 2001.

Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY 11201. The Agenda will include the following: Various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: October 10, 2001.

Cindy Vanderpool,

Detailed Director, Citizen Advocacy Panel Communications and Liaison.

[FR Doc. 01–25993 Filed 10–15–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Special Enrollment Examination Advisory Committee; Notice of Meeting

AGENCY: Internal Revenue Service, Office of Director of Practice, Treasury.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: Notice is given of a meeting of the Special Enrollment Examination Advisory Committee.

DATES: The meeting will be held Thursday, November 15, 2001 (8:30 a.m. to 4 p.m.) and Friday, November 16 (8:30 a.m. to 11 a.m.). Written requests to speak at the meeting or to attend the meeting must be received no later than November 8, 2001.

ADDRESSES: The meeting will be held at offices of the Internal Revenue Service, Bankamerica Building, 200 W Adams Street, Room 608 A and B, Chicago, Illinois. Written requests to speak at the meeting or to attend the meeting must be mailed, faxed, or e-mailed to: Internal Revenue Service, Office of Director of Practice, N:C:SC:DOP, Attn: Kathy Hughes, Designated Federal Officer, 1111 Constitution Avenue, NW., Washington, DC 20224; fax number 202–694–1934; e-mail address *Kathy.E.Hughes@irs.gov.*

FOR FURTHER INFORMATION CONTACT: Kathy Hughes, Designated Federal Officer, Special Enrollment Examination Advisory Committee, at 202–694–1851.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to cover the following agenda:

Thursday, November 15, 2001

8:30 a.m.–11:30 a.m.
Public Session: Discussion of Continuing Professional Education Courses

1 p.m.–3 p.m.
Public Session: Formulation of Continuing Professional Education Guidelines

3 p.m.–4 p.m.

Public Session: Opportunity for interested individuals to offer remarks germane to agenda topics or Enrolled Agent Program

Friday, November 16, 2001

8:30 a.m.–11 a.m.

Public Session: Discussion of Structure of Special Enrollment Examination

Beginning at 3 p.m. on Thursday, November 15, 2001, interested persons may speak at the meeting in accordance with the following limitations: (1) Speakers' remarks must be germane to the topics listed above or germane to the Enrolled Agent Program; and (2) remarks must be limited to no more than 10 minutes. Persons wishing to speak must send Kathy Hughes, the Designated Federal Officer, a written request, and the text or outline of their remarks, prior to the meeting in order to allow for the compilation of a speakers list. Speakers will be entered on the list in order of the receipt of their requests. No more than six requests will be accepted. Speakers will be notified of their position on the list, or in case more than six requests are received, that their requests to speak cannot be granted.

Persons interested in attending the meeting (but not speaking) must also send Kathy Hughes a written request prior to the meeting in order to allow for adequate seating. Every effort will be made to accommodate all requests for attendance.

Written requests to speak and written requests to attend must be received no later than November 8, 2001.

At any time, any interested person may submit to Kathy Hughes a written statement concerning the SEE or the Enrolled Agent Program. Such statements will be considered by the Director of Practice and, at his discretion, may be referred to the Committee for discussion at a later meeting.

Dated: October 2, 2001.

Patrick W. McDonough,

Director of Practice.

[FR Doc. 01–25992 Filed 10–15–01; 8:45 am]

BILLING CODE 4830–01–U

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Pears (winter) grown in—
- Oregon and Washington; comments due by 10-22-01; published 9-21-01 [FR 01-23657]

AGRICULTURE DEPARTMENT

Forest Service

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- Wildlife; 2002-2003 subsistence taking; comments due by 10-26-01; published 8-27-01 [FR 01-21129]

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- Alaska; fisheries of Exclusive Economic Zone—
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- West Coast States and Western Pacific fisheries—
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DEFENSE DEPARTMENT

Air Force Department

Privacy Act; implementation; comments due by 10-22-01; published 8-21-01 [FR 01-20746]

DEFENSE DEPARTMENT

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DEFENSE DEPARTMENT

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- Commercial item acquisitions; sealed bidding and simplified procedures; comments due by 10-22-01; published 8-22-01 [FR 01-21191]
- Task-order and delivery-order contracts; comments due by 10-22-01; published 8-23-01 [FR 01-21352]

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Air pollution control:
- State operating permits programs—
  - Arizona; comments due by 10-22-01; published 9-20-01 [FR 01-23483]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:
- State operating permits programs—
  - New Hampshire; comments due by 10-24-01; published 9-24-01 [FR 01-23763]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:
- State operating permits programs—
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ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- California; comments due by 10-22-01; published 9-20-01 [FR 01-23479]

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
- Oregon; comments due by 10-22-01; published 9-20-01 [FR 01-23218]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
- Oregon; comments due by 10-22-01; published 9-20-01 [FR 01-23219]

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 10-22-01; published 9-20-01 [FR 01-23478]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Colorado and Montana; comments due by 10-22-01; published 9-21-01 [FR 01-23596]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Colorado and Montana; comments due by 10-22-01; published 9-21-01 [FR 01-23597]
- New Jersey; comments due by 10-24-01; published 9-24-01 [FR 01-23220]
- New York; comments due by 10-25-01; published 9-25-01 [FR 01-23761]

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  - National Exchange Carrier Association Board of Directors and average schedule company payments computation; requirements; biennial regulatory review; comments due by 10-22-01; published 9-20-01 [FR 01-23495]

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LIST OF PUBLIC LAWS

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H.J. Res. 68/P.L. 107–48

Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Oct. 12, 2001; 115 Stat. 261)

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